

**THE CORNWALL  
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE  
SUR CORNWALL**

**Public Hearing**

**Audience publique**

**Commissioner**

**The Honourable Justice /  
L'honorable juge  
G. Normand Glaude**

**Commissaire**

**VOLUME 25**

**Held at :**

Hearings Room  
709 Cotton Mill Street  
Cornwall, Ontario  
K6H 7K7

Tuesday, May 2, 2006

**Tenue à:**

Salle des audiences  
709, rue de la Fabrique  
Cornwall, Ontario  
K6H 7K7

Mardi, le 2 mai 2006

**Appearances/Comparutions**

Mr. Pierre R. Dumais	Commission Counsel
Ms. Christine Morris	
Ms. Louise Mongeon	Registrar
Ms. Reena Lalji	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Actg.Det.Supt.Colleen McQuade	
Ms. G. Saccoccio Brannan,Q.C.	
Dect. Staff Sgt. Colin Groskopf	
M <sup>e</sup> Claude Rouleau	Ontario Ministry of Community
Mr. Mike Lawless	and Correctional Services and
Mr. Lorenzo D. Policelli	Adult Community Corrections
Mr. Christopher Thompson	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of
	the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Ms. Lauren Schellenberger	
Mr. William Carroll	Ontario Provincial Police
	Association
M <sup>e</sup> Claude Rouleau	Ms. Marg Hughes
Mr. Mike Lawless	Mr. Glenn Semple
Mr. Lorenzo D. Policelli	

## Table of Contents / Table des matières

	<b>Page</b>
List of Exhibits :	iv
Opening Remarks	1
<b>MS. MARG HUGHES, Resumed/Sous le même serment:</b>	<b>1</b>
Examination in-Chief by/Interrogatoire en-chef par Mr. Pierre Dumais (cont'd/suite)	1
Cross-Examination by/Contre-interrogatoire par Mr. Allan Manson	35
Cross-Examination by/Contre-interrogatoire par Mr. Dallas Lee	48
Cross-Examination by/Contre-interrogatoire par M <sup>e</sup> Claude Rouleau	65
<b>MR. GLENN SEMPLE, Sworn/Assermenté :</b>	<b>67</b>
Examination in-Chief by/Interrogatoire en-chef par Ms. Christine Morris	68

**LIST OF EXHIBITS/LISTE D'EXHIBITS**

<b>NO.</b>	<b>DESCRIPTION</b>	<b>PAGE NO</b>
------------	--------------------	----------------

1 --- Upon commencing at 10:07 a.m. /

2 L'audience débute à 10h07

3 **THE REGISTRAR:** Order. All rise.

4 This hearing of the Cornwall Public Inquiry  
5 is now in session. The Honourable Mr. Justice Normand  
6 Glaude presiding.

7 Please be seated. Veuillez vous asseoir.

8 **THE COMMISSIONER:** Good morning.

9 So let me just begin by noting that the  
10 crowds have thinned a little bit and if you feel that it's  
11 either too warm or too cold please let the clerk know and  
12 we will try to adjust, and there we go.

13 **MARG HUGHES, Resumed/Sous le meme serment:**

14 **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**

15 **DUMAIS (cont'd/suite):**

16 **MR. DUMAIS:** Good morning, Ms. Hughes.

17 **MS. HUGHES:** M'hm.

18 **MR. DUMAIS:** I'd like to take you back in  
19 context. We were discussing accountability mechanisms.

20 **THE COMMISSIONER:** Sorry, Mr. Dumais, could  
21 you just hold on a second? I just want to make sure I'm  
22 all lined up before we -- a few volumes.

23 Okay. So we're into Volume 1. We're  
24 probably going back to the Tab 2 -- no, Tab 1 and the  
25 summary and what page were we on, 20?

1                   **MR. DUMAIS:** Page 41.

2                   **THE COMMISSIONER:** Forty-one (41), all  
3 right.

4                   **MR. DUMAIS:** And we had just finished off  
5 Item 10.1 and I was about to start Item 10.2

6                   **THE COMMISSIONER:** Right. And so that was  
7 the accountability mechanism?

8                   **MR. DUMAIS:** Correct.

9                   **THE COMMISSIONER:** And now we're moving onto  
10 10.2 which is the history of the Ministry's Audit Services  
11 Branch?

12                   **MR. DUMAIS:** Right. Thank you.

13                   So we were looking at accountability  
14 mechanisms and we had just finished discussing yesterday  
15 the audit process or audit system that had been put in  
16 place.

17                   Your next item which you were discussing in  
18 your presentation was the Audit Services Branch. Perhaps  
19 you can just start with when the branch was implemented and  
20 what is the branch's role?

21                   **MS. HUGHES:** You'll see from the notes that  
22 it was really started in 1987. However, that was the time  
23 when the Investigation Services was amalgamated, actually,  
24 with Audit Services. In our documents there is a history  
25 of the actual investigation and Audit Services which

1 commenced, basically, in 1970 but in 1987 there was this  
2 amalgamation of Audit Services and Investigations. And it  
3 dealt primarily with the investigating issues in the  
4 institutions, advising that the Deputy Minister of any  
5 risks across the organization and any program areas and  
6 providing any tools that would eliminate or reduce the  
7 risks of anything occurring that was untoward within the  
8 institution. It did occur as well in the probation and  
9 parole offices but not as often at all as what it did in  
10 the institutions.

11 **MR. DUMAIS:** All right.

12 So that was first set up in 1987; is that  
13 correct?

14 **MS. HUGHES:** Yes, correct.

15 **MR. DUMAIS:** Essentially, every five years  
16 or so there is an evaluation of all correctional  
17 facilities?

18 **MS. HUGHES:** Correct. There was an  
19 operational review conducted on a five-year cycle just to  
20 go in to make sure that the institutions were operating  
21 safely and efficiently and that they were following the  
22 policies and procedures that are designated to the  
23 institutions.

24 **MR. DUMAIS:** And is it the same thing with  
25 Management Practices?

1 MS. HUGHES: Pardon?

2 MR. DUMAIS: Is that the same thing with  
3 Management Practices?

4 MS. HUGHES: Yes, yes.

5 MR. DUMAIS: It forms part of the  
6 correctional review?

7 MS. HUGHES: Yes. There is an  
8 accountability there.

9 MR. DUMAIS: What about operational reviews?  
10 Is that separate and apart or is that different?

11 MS. HUGHES: No, that grew out of the Audit  
12 Branch. That was -- the operational reviews were part of  
13 the Audit and Investigations Branch and that was what was  
14 actually done on the five-year cycle in the institutions.

15 MR. DUMAIS: All right.

16 I understand that at one point in time they  
17 implemented a self-audit workbook.

18 MS. HUGHES: Correct.

19 MR. DUMAIS: Can you give us an idea of what  
20 the workbook is and how that works?

21 MS. HUGHES: Particularly in probation and  
22 parole offices but also in the institutions it basically  
23 dealt with health and safety issues. And so there would be  
24 -- the tool was developed to make sure that the  
25 administration of the cost centre or the probation and



1 parole office would go through with a health and safety  
2 delegate to make sure that the office or the institution  
3 was following health and safety standards and make sure  
4 that, you know, injuries were nil, basically, to staff and  
5 to clients.

6 **MR. DUMAIS:** And how does it work, the  
7 institution fills out the workbook and files it on an  
8 annual basis? Is that ---

9 **MS. HUGHES:** Correct, correct. And as far  
10 as the probation offices as well, I mean, they are  
11 submitted and collated and again retained and then there is  
12 a follow up to make sure that any piece that is not in  
13 compliance with health and safety standards is addressed.

14 **MR. DUMAIS:** So the audit book is forwarded  
15 to the Audit Branch?

16 **MS. HUGHES:** Yes, and then subsequently to  
17 the Assistant Deputy Minister.

18 **MR. DUMAIS:** All right.

19 Do you know if everything is done on paper  
20 or do actual investigators go onsite or auditors go onsite?

21 **MS. HUGHES:** Certainly, auditors have been  
22 onsite and take a look at these. As far as whether they're  
23 done on paper, I know that recently we've put the self-  
24 audit workbook on computer. It can be done by computer and  
25 submitted.

1                   **MR. DUMAIS:** All right.

2                   And does the response come by computer as  
3 well?

4                   **MS. HUGHES:** I'm not too sure of that. I'm  
5 not too sure of that. I know that there is a discussion  
6 with the Senior Management Group when the collation of all  
7 of the audits are reviewed and specifically if there is one  
8 consistent issue that is raised all across all of the  
9 regions. I mean, that becomes a corporate management  
10 issue, let's say, the setup of probation and parole offices  
11 for the safety of the probation parole officer.

12                   **MR. DUMAIS:** All right.

13                   Now, your next item that you discuss at 10.3  
14 are priority issues which ---

15                   **THE COMMISSIONER:** Mr. Dumais, can I stop  
16 you for a moment?

17                   **MR. DUMAIS:** Yes.

18                   **THE COMMISSIONER:** From 1987 onwards you  
19 would have those audit reports?

20                   **MS. HUGHES:** I believe that they would be  
21 filed. I believe that.

22                   **THE COMMISSIONER:** Okay.

23                   **MR. DUMAIS:** Now, in 1994 priority or  
24 contentious issues, there's a mechanism that's set up to  
25 deal with that. We can deal firstly with the definition of

1 what the Ministry considers a priority issue.

2 **MS. HUGHES:** A priority issue was any  
3 occurrence that could raise something contentious that  
4 might hit the media that might hit the legislature. As far  
5 as, you know, a serious occurrence that might require an  
6 investigation it would be something that could cause, let's  
7 say, bad media or bad -- something happening to someone  
8 that was -- you know, that would be of concern or  
9 jeopardizing somebody's safety.

10 **MR. DUMAIS:** All right.

11 And I understand that at one point in time  
12 the definition was updated or varied to include Level One  
13 offences.

14 **MS. HUGHES:** Right. In particular, if a  
15 parolee who was out on a parole certificate committed a  
16 Level One offence, that became a priority issue as well,  
17 priority issue because the Level One offence is certainly  
18 like an arson or something that is a dangerous, serious  
19 offence. So that was considered a priority issue.

20 **MR. DUMAIS:** All right.

21 I understand that in 1996 a policy was  
22 adopted and it accompanied a directive, Directive 35/96  
23 that you have enclosed at Tab 50.

24 **THE COMMISSIONER:** Mr. Dumais, sorry to stop  
25 you but -- so one of the bases that you are using to assess

1           whether something should be addressed is media or whether  
2           or not a fear of adverse media reaction?

3                   **MS. HUGHES:** Yes, there would be that.  
4           Again, protecting the Ministry, protecting the Minister, if  
5           there was a House in the -- if there was a question in the  
6           Legislature because it had come through a local MPP's  
7           office, certainly that kind of information as well. It  
8           would be a protection to the Minister.

9                   **THE COMMISSIONER:** Yes. So if something  
10          flew under the radar of news?

11                   **MS. HUGHES:** It would still be tagged. It  
12          was not just to address media. It was also if there was a  
13          contravention of a policy that was serious enough that  
14          something had to be done about it.

15                   **THE COMMISSIONER:** Okay, thank you.

16                   Go ahead, Mr. Dumais.

17                   **MR. DUMAIS:** Now, in 1996 there is a policy  
18          that was put in place and that was circulated through a  
19          directive and you have enclosed that at Tab 50 of your Book  
20          of Documents.

21                   **MS. HUGHES:** M'hm.

22                   **MR. DUMAIS:** And that policy provided for  
23          the implementation of an Offender Incident Report.

24                   **MS. HUGHES:** Correct.

25                   **MR. DUMAIS:** Can you explain to us what that

1 is?

2 **MS. HUGHES:** It's basically an overview of  
3 who, what, when, where, how. The report was to include  
4 this information and it was to be submitted at that time to  
5 the Information Management Unit and the Assistant Deputy  
6 Minister so that there could be a decision whether there  
7 should be a briefing note done, what kind of reaction needs  
8 to be taken with this information provided.

9 **MR. DUMAIS:** All right.

10 So the 1996 policy essentially elaborated  
11 what the verbal policy ---

12 **MS. HUGHES:** Yes, the process.

13 **MR. DUMAIS:** The process that had been in  
14 put in place since 1994?

15 **MS. HUGHES:** Correct.

16 **MR. DUMAIS:** Now, in 2005 definitions were  
17 varied. Priority issues, the definition of priority issues  
18 were changed as well. Perhaps you can discuss that?

19 **MS. HUGHES:** The one major point on this one  
20 was including the request for an inquest. If an offender  
21 had died in one of our institutions that also became a  
22 priority issue and so the Incident Report was required  
23 because an inquest would be called automatically.

24 **MR. DUMAIS:** And that policy is now part of  
25 your Manual of Policy and Procedures and that's found at

1 Tab 29?

2 MS. HUGHES: Yes.

3 MR. DUMAIS: Of your Book of Documents?

4 MS. HUGHES: Yes.

5 MR. DUMAIS: The policy was further amended  
6 in July of 2005?

7 MS. HUGHES: Yes.

8 MR. DUMAIS: And what changed at that time?

9 MS. HUGHES: Specifically, it was advising  
10 probation officers if they were aware of a critical  
11 incident that they were -- or the potential for one that  
12 they had to immediately discuss it with their area manager.  
13 The area manager in consultation with the probation  
14 officer, they would determine what information should go to  
15 the regional office and the Information Management Unit.

16 MR. DUMAIS: Did the policy apply only to  
17 people working in correctional facilities prior to July  
18 2005?

19 MS. HUGHES: No.

20 MR. DUMAIS: All right.

21 So it applied to everyone?

22 MS. HUGHES: Yes.

23 MR. DUMAIS: Was it the first time that the  
24 probation officer was named as part of the policy, as part  
25 of the definition?

1 MS. HUGHES: No.

2 MR. DUMAIS: So it was always there. So  
3 what was different, then, was that the probation officer  
4 had to report to the area manager?

5 MS. HUGHES: There was an obligation. There  
6 was an obligation; it was a direct obligation to report.

7 MR. DUMAIS: And did the chain of command  
8 change as well in the sense that the area manager was not  
9 involved prior to July 2005?

10 MS. HUGHES: No, the area manager should  
11 have been consulted in each of those cases.

12 MR. DUMAIS: All right.

13 And the incident report that requires to be  
14 filled and filed ---

15 MS. HUGHES: Yes.

16 MR. DUMAIS: --- was it prepared by the area  
17 manager and filed by him throughout -- him or her?

18 MS. HUGHES: I've seen it done both ways, to  
19 tell you the truth. I mean, the probation officer who is  
20 reporting the incident, let's say the death of a client  
21 under community supervision by suicide or homicide that  
22 would be an example of it. The probation officer would  
23 know the details of the event but they would usually write  
24 it in consultation and collaboration with the area manager.

25 MR. DUMAIS: All right.

1                   And again, the updated version of that  
2                   policy is now part of your Policy and Procedures Manual?

3                   **MS. HUGHES:** Yes.

4                   **MR. DUMAIS:** You noted two changes in 2005.  
5                   Were these two separate changes or were both the changes  
6                   part of the July 2005 change?

7                   **MS. HUGHES:** I believe that they were of the  
8                   one document addressing both.

9                   **MR. DUMAIS:** All right.

10                   Now, if we could then deal with your  
11                   conflict of interest policy starting with a definition of  
12                   what conflict of interest is or where the definition comes  
13                   from?

14                   **MS. HUGHES:** Well, certainly the original  
15                   one was a government directive, not just for Correctional  
16                   Services where an employee of the government takes  
17                   something of a personal interest contrary to his  
18                   responsibility or her responsibility as a public servant.

19                   **MR. DUMAIS:** So it's essentially the same  
20                   definition and same obligation that all public servants  
21                   dealt with as the definition came from the *Public Service*  
22                   Act.

23                   **MS. HUGHES:** Yes.

24                   **MR. DUMAIS:** Right. And in 1989 there's a  
25                   policy directive that went out.



1                   **MS. HUGHES:** Correct.

2                   **MR. DUMAIS:** And you have enclosed that at  
3                   Tab 46 of your Book of Documents.

4                   **MS. HUGHES:** Correct.

5                   **MR. DUMAIS:** And what did that directive  
6                   provide?

7                   **MS. HUGHES:** This included that any  
8                   relationship of a personal nature with an offender, an ex-  
9                   offender or family or friends of offenders and ex-offenders  
10                  must be reported. So any relationship with offenders or  
11                  ex-offenders, basically, that any staff of the Ministry was  
12                  having was to be reported.

13                  **MR. DUMAIS:** And what was the purpose of  
14                  this policy?

15                  **MS. HUGHES:** Breach of security is one of  
16                  the issues. If a correctional officer was having a  
17                  relationship of some nature with an offender who had been  
18                  released from an institution, let's say, and it was just in  
19                  general conversation that information was being released it  
20                  could cause a breach of security for any of the offenders  
21                  who were still remaining on -- it could jeopardize even  
22                  staff safety eventually.

23                  **MR. DUMAIS:** Thank you.

24                  Making sure as well that employees were not  
25                  compromised in the exercise of their duties and

1 responsibilities?

2 **MS. HUGHES:** Yes.

3 **MR. DUMAIS:** Now, the policy was updated in  
4 1990.

5 **MS. HUGHES:** Correct.

6 **MR. DUMAIS:** How did the policy change that  
7 year?

8 **MS. HUGHES:** The staff member had to discuss  
9 the situation with the chief administrator and the chief  
10 administrator would be an area manager or superintendent or  
11 manager in a corporate setting, and so chief administrators  
12 actually were to be advised of this potential for conflict  
13 of interest.

14 **MR. DUMAIS:** And how is it determined who  
15 the chief administrator is in a particular office?

16 **MS. HUGHES:** Well, the chief administrator  
17 in a probation parole office would be an area manager. So  
18 if he were a probation or parole officer even in a  
19 satellite office, you'd have a responsibility to notify  
20 your area manager. In the institution it's the  
21 superintendent. It's your supervising management person.

22 **MR. DUMAIS:** Right. And then it would be  
23 the responsibility of the chief administrator to decide  
24 whether or not this required to be reported.

25 **MS. HUGHES:** Yes, or to make a decision and

1 advise the employee.

2 MR. DUMAIS: And that updated version of the  
3 policy has been imposed as well at Tab 47 of your Book of  
4 Documents?

5 MS. HUGHES: Yes.

6 MR. DUMAIS: The next update on the conflict  
7 of interest policy occurred in 1998.

8 MS. HUGHES: Yes.

9 MR. DUMAIS: What change in the policy at  
10 that time?

11 MS. HUGHES: Basically, at that time a form  
12 was developed that an employee had to complete explaining  
13 what their current position was as far as their employment  
14 status and what duties they had, and then the possible  
15 conflict. That was submitted to the chief administrator or  
16 your supervisor management and the Deputy Minister's  
17 office. Usually, then, there is a thorough review by a  
18 unit, which includes lawyers, and they make the decision  
19 whether this is an actual conflict.

20 So if -- I mean some examples are, if you  
21 volunteer with one of the contract agencies and you have  
22 knowledge that could give gain to the contracting agency --  
23 so that would probably be considered a conflict of  
24 interest. You would receive a letter back from the Deputy  
25 Minister's office saying "Cease and desist", basically, if

1 that was the situation. That decision had been made.

2 **MR. DUMAIS:** And does the policy provide for  
3 what the response mechanism is, or how the Ministry deals  
4 with different conflicts?

5 **MS. HUGHES:** Yes. The employee submitting  
6 the form is advised that they can expect a decision back in  
7 writing.

8 **MR. DUMAIS:** And then finally there is a  
9 current version of the policy that has been included at Tab  
10 39 of your Book of Documents. That, again, is part of your  
11 Policies and Procedures Manual.

12 **MS. HUGHES:** Correct.

13 **MR. DUMAIS:** Are there any changes to date  
14 from the 1998 version of the policy?

15 **MS. HUGHES:** Not particularly. It just  
16 again explains the offender and ex-offender situation  
17 relationships of employees of the Ministry with offenders  
18 and ex-offenders. And, you know, who can make that  
19 decision in the timelines as far as when an offender or ex-  
20 offender is considered an ex-offender.

21 **MR. DUMAIS:** And the policy provides --  
22 essentially the last sentence of that item, and I'll read  
23 it for you:

24 "When a person ceases to be considered  
25 an ex-offender depends on the

1                                   circumstances of each case."

2           And that's taken from the policy itself?

3                           **MS. HUGHES:** Correct.

4                           **MR. DUMAIS:** All right.

5                           And if I keep going with the next sentence:

6                                   "Generally, former offenders have to  
7                                   distance themselves from the criminal  
8                                   justice system in terms of time and  
9                                   demonstrated responsible behaviour."

10           Certainly, it's a discretionary definition and open to  
11           interpretation.

12                           **MS. HUGHES:** Correct.

13                           **MR. DUMAIS:** And there's no other standards  
14           or no other more precise definition so ---

15                           **MS. HUGHES:** I would say on a case-by-case  
16           basis almost.

17                           **MR. DUMAIS:** All right.

18                           But the conflict of interest policy would  
19           catch offenders who are no longer being supervised or on  
20           probation.

21                           **MS. HUGHES:** Correct.

22                           **MR. DUMAIS:** And if I could then take you to  
23           your next item, Item 10.5, which deals with complaints in  
24           investigations and the mechanisms that are in place to  
25           respond to those; if you can start with describing for us

1 the internal administrative investigation policy?

2 **MS. HUGHES:** This one was introduced  
3 basically to make sure that there was a connection or a  
4 linkage between our own internal investigations and any  
5 other body that would be investigating. It streamlines  
6 what's going on so you don't have gaps in any type of an  
7 internal investigation, accurately providing reports as  
8 well to the Ministry and to the justice department you're  
9 working with, the police force.

10 **MR. DUMAIS:** And that was put in place in  
11 August of 1998?

12 **MS. HUGHES:** Correct.

13 **MR. DUMAIS:** And that policy differentiates  
14 from Level One investigations and Level Two? Perhaps you  
15 can just explain to us what the difference is between the  
16 two.

17 **MS. HUGHES:** Level One investigations is a  
18 secure breach of policy, the sudden death of a client,  
19 let's say, a very high profile contravention of a Ministry  
20 policy. There's a subsequent policy that has even turned  
21 the investigators for a Level One offences into  
22 investigators; they are full-time complement investigators.

23 Whereas a Level Two is a minor infraction or  
24 a minor contravention against a policy and often the  
25 investigators looking or investigating those Level Two will

1 be -- they're trained, sort of seconded. It's not as heavy  
2 duty a contravention of a policy compared to a Level One.

3 **MR. DUMAIS:** You touched on that briefly,  
4 but can you just explain to us who these investigators are?

5 **MS. HUGHES:** Well, I can only speak to one  
6 who I know right now as the manager, the chief inspector of  
7 the Corrections Investigations Security. And I believe  
8 that he has been specifically trained for this position,  
9 but I cannot tell you exactly that.

10 With the Level Two investigators I  
11 understand that they have been trained in specific issues  
12 and specific techniques and some are seconded from field  
13 operations because they're familiar with field operations,  
14 to go in and do an investigation.

15 **MR. DUMAIS:** All right.

16 And Level Two investigators are supervised  
17 by a Level One investigator; is that correct?

18 **MS. HUGHES:** Correct.

19 **THE COMMISSIONER:** So how common would it be  
20 over time that people would report these types of things?

21 **MS. HUGHES:** I don't know the numbers. I've  
22 used the unit once myself, just within the last five years.  
23 But I honestly do not know how often they would be called  
24 upon to investigate.

25 **THE COMMISSIONER:** Just so I have it right,

1 people would write in and on the form they'd say. "I am  
2 considering entering into a relationship with one of my  
3 probation people".

4 **MS. HUGHES:** I haven't heard of that. But,  
5 yes -- I mean, often what a conflict of interest you might  
6 have -- a probation officer whose nephew living on the  
7 other side of the province is being placed on probation or  
8 has committed an offence and that probation officer is  
9 expected to do a conflict of interest form. Perhaps a  
10 Level Two at that point. An investigator could look into  
11 it, but certainly this unit that's established to review  
12 the conflict of interest after their submissions would be  
13 making that decision to see if there's any way that a  
14 conflict has arisen between the probation officer and the  
15 actual process going on, on the other side of the province.

16 **THE COMMISSIONER:** All right. Thank you.

17 **MR. DUMAIS:** Now, another mechanism that  
18 exists to deal with complaints and investigations is the  
19 Office of the Ombudsman.

20 **MS. HUGHES:** I wanted to add that into our  
21 information because I think that it's a point of  
22 accountability, again, that the Ministry certainly is  
23 under. The Ombudsman's annual report often -- the  
24 institutions and correctional services have an awful lot of  
25 complaints that the Ombudsman's office does investigate at



1 different times. So I wanted to put that into this report  
2 to say that it was available effective 1975 to investigate  
3 any complaints, and that certainly clients with the  
4 Ministry under the supervision of the Ministry have used  
5 the Office of the Ombudsman in the past.

6 **MR. DUMAIS:** Since they had been in place  
7 since 1975, certainly they would have dealt with complaints  
8 between '75 and 1998 when your internal administrative  
9 investigations unit was set up?

10 **MS. HUGHES:** But they also run concurrently.  
11 I mean it is there, it is always there; the Office of the  
12 Ombudsman is always there. So anyone can make a complaint  
13 to the Office of the Ombudsman.

14 **MR. DUMAIS:** Now, if you can turn to Tab 66  
15 of your Book of Documents, and that document reads or has  
16 the following title "Correctional Services Divisions,  
17 Statement of Ethical Principles"?

18 **MS. HUGHES:** Correct.

19 **MR. DUMAIS:** Can you explain to us how that  
20 document came about?

21 **MS. HUGHES:** Basically, it just was  
22 contextualizing what is expected of employees in the  
23 Ministry, as a commitment to honesty, integrity,  
24 professionalism. There had been, I guess, some incidents  
25 where Correctional Services employees were not seen as

1 acting in the best behaviour and acting in the best  
2 interests of the Ministry and the Statement of Ethical  
3 Principles was developed, even though those principles have  
4 been in effect under the *Public Service Act*. This became  
5 the Ministry's stand-alone statement of ethical principles.

6 So in many of the offices you go into you  
7 will find that they are framed and hung on the wall. It's  
8 a good reminder for everybody dealing with the public,  
9 dealing with co-workers. So it's a commitment to honesty,  
10 integrity, that kind of behaviour.

11 **MR. DUMAIS:** Very similar to a mission  
12 statement?

13 **MS. HUGHES:** Pardon?

14 **MR. DUMAIS:** Very similar to a mission  
15 statement?

16 **MS. HUGHES:** No, I don't think so. I think  
17 that this is more a personal employee agreement. This is  
18 the behaviour that's expected. This is the behaviour that  
19 is expected of all employees in Correctional Services.

20 **MR. DUMAIS:** Was this adopted in 1995?

21 **MS. HUGHES:** Correct.

22 **MR. DUMAIS:** Was that circulated through a  
23 directive? Or is that part of your Policy and Procedure  
24 Manual or is that just a stand alone ---

25 **MS. HUGHES:** It's a stand alone, but it's

1           there. It went out as a notice to all employees at the  
2           time. This is what is expected of Correctional Services  
3           employees.

4                   **MR. DUMAIS:** All right. If we can then move  
5           to Section 10.6, Allegations of Serious Criminal Activity.  
6           I understand that in 1992, interim guidelines which you've  
7           previously discussed regarding allegations of criminal  
8           activity were introduced and you had enclosed that as Tab  
9           62 of your Book of Documents.

10                   **MS. HUGHES:** Right.

11                   **MR. DUMAIS:** Perhaps you can explain to us  
12           what that directive or what that regulation is about?

13                   **MS. HUGHES:** This was the direction from the  
14           Deputy Minister's office regarding any allegation of  
15           physical or sexual or suspected abuse by clients or  
16           employees that the chief administrator or the area manager  
17           superintendent was to be advised.

18                   **MR. DUMAIS:** Well, that was one of the  
19           questions. Did that deal only with employees of the  
20           Ministry that had been physically or sexually abused or did  
21           that deal with clients as well?

22                   **MS. HUGHES:** Clients, as well.

23                   **MR. DUMAIS:** All right. What did the  
24           guidelines provide was to happen if there was an  
25           occurrence?

1                   **MS. HUGHES:** That the chief administrator  
2 had the discretion actually, to advise the local police or  
3 the Ontario Provincial Police.

4                   **MR. DUMAIS:** So there was not an obligation  
5 -- the discretion was left with the chief administrator?

6                   **MS. HUGHES:** Correct.

7                   **MR. DUMAIS:** All right. And if there's an  
8 area manager, he is the chief administrator and if there is  
9 no area manager, that would fall on whom?

10                   **MS. HUGHES:** There would always be an area  
11 manager, even in the satellite offices. An area manager is  
12 responsible for that area office and the satellite offices  
13 within that catchment area. All probation and parole  
14 officers report to an area manager.

15                   **MR. DUMAIS:** All right. So from the time  
16 the guideline was put in place, area managers were already  
17 in place at all offices?

18                   **MS. HUGHES:** Correct.

19                   **MR. DUMAIS:** Now, the next paragraph deals  
20 with the policy that followed the interim guidelines and I  
21 think you've indicated to me that that policy actually came  
22 into effect in 1999, rather than 1996. Is that correct?

23                   **MS. HUGHES:** Correct.

24                   **MR. DUMAIS:** All right. And you have  
25 enclosed that as Tab 54 of your Book of Documents.

1                   **MS. HUGHES:** M'hm.

2                   **MR. DUMAIS:** How did the policy differ from  
3 the interim guidelines? Was it essentially the same or was  
4 there a difference?

5                   **MS. HUGHES:** Well, certainly this one  
6 removed the discretion of the area manager to notify  
7 police. The police were to be contacted in all cases.  
8 This also introduced the Independent Investigations Unit  
9 which would investigate situations of workplace  
10 discrimination, harassment, sexual impropriety. Based on  
11 that information from the IIU, the police might also be  
12 called to investigate if the sexual impropriety was such  
13 that it could be a criminal offence.

14                   **MR. DUMAIS:** I guess the reason why I asked  
15 the question previously and I might be mistaken but, I'm  
16 looking at the fifth line where it defines who is -- it  
17 defines the occurrence and it says:

18                                 ".. including sexual assault involving  
19 employees or clients as perpetrators or  
20 victims."

21                   **MS. HUGHES:** Correct.

22                   **MR. DUMAIS:** So then you believe that the  
23 1992 guidelines had the same definition?

24                   **MS. HUGHES:** I think it's expanded, I mean,  
25 but it does include again, employees and clients and

1 certainly clients on client impropriety or criminal  
2 activity, employee involvement.

3 **MR. DUMAIS:** All right. So principally then  
4 the most important changes are then the obligation now to  
5 contact the local police force, your internal audit or  
6 Internal Investigations Unit ---

7 **MS. HUGHES:** Internal Investigations Unit.

8 **MR. DUMAIS:** --- was advised as well.

9 **MS. HUGHES:** Correct.

10 **MR. DUMAIS:** If we can then look at your  
11 next item, Complaints About Staff. Can you explain to us  
12 what mechanism the Ministry have put in place for dealing  
13 with those types of complaints.

14 **MS. HUGHES:** Certainly. There is a right  
15 for staff to notify the area manager if it's a staff  
16 complaint about another staff. If there is a public or the  
17 client complains about a staff, they can write the notice  
18 to the area manager and if they choose not to do that,  
19 whoever they have made this complaint to is to do an  
20 occurrence report and submit it.

21 **MR. DUMAIS:** All right. And if the employee  
22 does not want to deal with the area manager?

23 **MS. HUGHES:** They can go to the regional  
24 director who is basically the supervisor of the area  
25 manager.

1                   **MR. DUMAIS:** And when the complaint is made,  
2 the area manager fills out an occurrence report?

3                   **MS. HUGHES:** They do a report as well and  
4 are obligated to get back to the complainant with the  
5 outcome of the investigation.

6                   **MR. DUMAIS:** All right. Do you know where  
7 or with whom the occurrence report is filed with, by the  
8 area manager?

9                   **MS. HUGHES:** I believe, I mean, with the  
10 regional director. I believe that it goes there. If  
11 there's further I would expect it to go to the Assistant  
12 Deputy Minister's office.

13                   **MR. DUMAIS:** All right. Now, if I'm looking  
14 at the third paragraph of page 45 and I'll just read you  
15 the first two sentences:

16                                    "In each case, the Area Manager shall  
17                                    have the complaint investigated,  
18                                    prepare a written report of the  
19                                    investigation, take appropriate  
20                                    action..."

21                   Does this mean that the local area manager  
22 ensures that there's a local investigation?

23                   **MS. HUGHES:** Yes.

24                   **MR. DUMAIS:** All right. So it doesn't --  
25 the occurrence report is not filed with your investigative

1 unit and they investigate the complaint? It's done  
2 locally.

3 MS. HUGHES: Right.

4 MR. DUMAIS: If the complaint is lodged with  
5 the regional director rather than the area manager, does  
6 the responsibility of the investigation then fall in his  
7 hands?

8 MS. HUGHES: To the regional director or he  
9 may delegate.

10 MR. DUMAIS: Now the next item will be dealt  
11 with by one of your colleagues; Item 11 deals exclusively  
12 with safeguards for young persons and that is otherwise  
13 dealt with by one of the other witnesses as well.

14 MS. HUGHES: Yes.

15 MR. DUMAIS: Then, our last item which is at  
16 page 56 of your outline deals with records management.

17 MS. HUGHES: M'hm.

18 MR. DUMAIS: I understand that records for  
19 dealing with adults were initially dealt with or are dealt  
20 with pursuant to the *Archives Act*?

21 MS. HUGHES: Correct.

22 MR. DUMAIS: Can you just explain to us what  
23 that provides?

24 MS. HUGHES: Well, there is some progression  
25 in how records are to be maintained and filed, not



1 destroyed. And you'll see that in 1989, the files were  
2 retained for three years and basically it was left in the  
3 office and then files were actually destroyed. Then in  
4 1992, it was ordered that the records after three years,  
5 were to be sent to the Ontario Records Centre.

6 And then just as recently as 1996, the field  
7 was directed not to destroy any of the case files and the  
8 closed files are to go to the Records Centre for inactive  
9 storage, two years after the closure of the file. So the  
10 files were moved out of the probation and parole offices.

11 **MR. DUMAIS:** All right. When you're saying  
12 case files, what do case files ---

13 **MS. HUGHES:** Certainly the probation -- like  
14 any of the legal documents, a document we call the referral  
15 intake form and that's the one that goes to the police with  
16 the conditions. In the old days, the case notes used to  
17 go, when they were handwritten; information, collateral  
18 contacts, anything that would be in hard copy, they would  
19 go. I understand that we are looking at processes right  
20 now for the computerized case notes and I'm not sure what  
21 the decision has been on that at this point.

22 **MR. DUMAIS:** All right. And by that you  
23 mean the case notes would be in your OTIS system?

24 **MS. HUGHES:** Yes.

25 **MR. DUMAIS:** All right. Is the policy

1 different for probation officers' diaries?

2 **MS. HUGHES:** Yes. There's a different  
3 timeline. I believe that it's at one year or two years  
4 compared to other pieces of information.

5 **MR. DUMAIS:** Now, the three calendar years  
6 with respect to record retention starts counting at the end  
7 of the calendar year, when the probation order terminates.  
8 Correct?

9 **MS. HUGHES:** The file is closed. Correct.

10 **MR. DUMAIS:** And the file is closed when the  
11 probation order expires?

12 **MS. HUGHES:** That could be or you could have  
13 the death of a client and the order is still running  
14 legally. So it would be, yes, three years at the end, when  
15 the file closes.

16 **MR. DUMAIS:** All right. So I believe Ms.  
17 Hughes, this was your last item and as I indicated  
18 yesterday, they were supposed to update our chart as we  
19 went along and perhaps -- and I note as well that you've  
20 provided a summary as Item 13 and I believe the summary  
21 deals with some of your evidence and some of the evidence  
22 of the two other witnesses that will testify. Perhaps you  
23 can just wrap things up, address what you've dealt with and  
24 perhaps you can go through the chart and explain to us what  
25 evidence you provided as well.

1                   **MS. HUGHES:** Okay. I hope that over these  
2 two days, I've had an opportunity to indicate that the  
3 Ministry has moved from the punitive sort-of institution-  
4 type of service to a more community-based and  
5 rehabilitative organization, specifically for adult  
6 offenders.

7                   The accountability and the quality assurance  
8 pieces significantly evolved over the last 20 years -- 25  
9 years in particular and with the introduction of case  
10 supervision standards and case audits or case management  
11 reviews. I think that the duties of probation officers,  
12 although the legislation hasn't changed significantly, it's  
13 the manner in which they do their job that has really  
14 evolved. And that's accountability requirements, contacts  
15 with police have been, you know, standardized with  
16 protocols for high risk offenders, things like that. Where  
17 I think that the probation service certainly has evolved  
18 into an accountable and professional organization.

19                   I just want to explain that from the chart,  
20 I'm hoping that you can see where 1972, we've moved  
21 services to -- the probation services into Correctional  
22 Services. In '75, there is an opportunity there to address  
23 any complaints to the Ombudsmen. So there is an outlet for  
24 accountability and complaint there.

25                   In 1978, I'm trying to show that we're

1 moving into a more program, community-based operation.  
2 We're moving away from institutions with the introduction  
3 of the community service order program as an alternative to  
4 incarceration.

5 So case audits you'll see occurred in 1985.  
6 That's one of the first directions for case audit. There  
7 is area manager supervision, reviewing, the work of  
8 probation officers, conflict of interest directive in '86.  
9 Again it's providing standards for behaviour with  
10 employees.

11 New standards for case supervision were  
12 evolving as case standards were developed and case  
13 accountability and supervision plans became more stringent,  
14 this is where we've placed them, and new standards for  
15 supervision.

16 The records schedule; this is where it's for  
17 three years.

18 They're not to be destroyed. They're not to  
19 be sent out. You hang on to case records.

20 1990, I've added into this chart because, as  
21 I explained yesterday, it really increased the number of  
22 offenders going through community supervision and community  
23 corrections significantly at that time.

24 The next one is 1992, "Interim Guidelines  
25 Regarding Allegations of Criminal Activity". Again, these

1 are directives and policies to our staff regarding issues  
2 that might occur or have occurred, and making sure that not  
3 only the Ministry but clients and employees are protected  
4 by any allegation of criminal activity.

5 The "Contentious Issues Policy"; this is  
6 when senior management, the Minister, corporate offices, we  
7 want to make sure that anything that could cause problems  
8 and not just media, but that could jeopardize an offender  
9 or a client's safety or an employee's safety, something  
10 that has happened is reported.

11 1995, you'll see the "Review and Update of  
12 Case Audit Process". Again, we are holding probation and  
13 parole officers more accountable to hitting the standards,  
14 following policies with the update to the case audit  
15 process.

16 At that time, as well, the Statement of  
17 Ethical Principles, that gives probation and parole  
18 officers, as well as other Ministry employees, here's the  
19 commitment that we all have to make to proper behaviour,  
20 honesty, integrity, professionalism.

21 1996, the "Guidelines Regarding Allegations  
22 of Criminal Activity Policy". It's increased. The  
23 discretion is removed regarding contacting police.  
24 Internal Investigations Unit addresses workplace  
25 discrimination, harassment, sexual impropriety, and not

1 just for employees but clients as well. Conditional  
2 sentences are introduced, and again, I guess I'm trying to  
3 explain that probation and parole officers are dealing with  
4 higher risk offenders. These were offenders who could have  
5 been sentenced to incarceration; however, were given this  
6 sentence and require higher supervision or more stringent  
7 conditions.

8 1998, "Internal Administration  
9 Investigations Policy". Again, this is part of the  
10 continuum of investigations, a cooperative effort to  
11 working with other investigative services such as the  
12 police. The conflict of interest policy is updated, and  
13 again, we talk about dealing with offenders and ex-  
14 offenders in that one.

15 And particularly of interest, I think, is  
16 the next bullet point under 1998 and that's the  
17 introduction of an assistant deputy minister and four  
18 regional directors who became responsible for community  
19 operations and young offenders. I think that's quite  
20 significant, in that it places the importance on these  
21 offender groups with a senior management accountability  
22 organization.

23 In 2000, the introduction of the new service  
24 delivery model, and as I said yesterday, I mean, this is a  
25 change away from an old traditional model of one-to-one

1 supervision. It allows for varying degrees of intervention  
2 with offenders based on assessment, which is the  
3 cornerstone, as I've said, of any of the dealings that  
4 probation parole officers have with offenders.

5 In 2001 the government provided funding for  
6 the Ministry to hire 165 probation and parole officers, and  
7 that's basically as a result of increasing accountability,  
8 higher risk offenders, more violent offenders, offenders  
9 with mental disorders, and the requirement for probation  
10 officers to spend more time on community involvement  
11 dealing with their offenders.

12 I'm going to leave that, I think, Mr.  
13 Dumais. The next one is of course the introduction of the  
14 new Ministry. But on that chart I just wanted to try and  
15 indicate schematically sort of some of the growth and  
16 accountability in community corrections.

17 **MR. DUMAIS:** All right.

18 These are my questions. Thank you very  
19 much. My friends may have some questions as well.

20 **THE COMMISSIONER:** Mr. Manson.

21 **--- CROSS-EXAMINATION BY/INTERROGATOIRE PAR MR. MANSON:**

22 **MR. MANSON:** Ms. Hughes, perhaps you or Mr.  
23 Dumais can help me, but I'm looking for the documents  
24 dealing with the 1992 policy regarding criminal activity.

25 Tab 62, August 12<sup>th</sup>, 1992, is that the

1 document you're referring to?

2 Oh, I should have introduced myself. My  
3 name is Allan Manson and I'm counsel for The Citizens of  
4 Community Renewal. I apologize, Ms. Hughes.

5 **MS. HUGHES:** Thank you.

6 The document that I have at Tab 62 is the  
7 August 12<sup>th</sup>, 1992 "Interim Guidelines Regarding Allegations  
8 of Criminal Activity".

9 **MR. MANSON:** Yes. And all I've got is a  
10 brief paragraph apparently from Valerie Gibbons, August  
11 12<sup>th</sup>, 1992. But then there's a subsequent document, if you  
12 can just scroll down to page 2, August 14<sup>th</sup>:

13 "You recently received a document from  
14 Neil McKerrell."

15 **MS. HUGHES:** Okay.

16 **MR. MANSON:**

17 "You recently received a memorandum  
18 which I signed on behalf of the Deputy  
19 Minister dated August 12<sup>th</sup>, 1992  
20 establishing interim guidelines  
21 regarding allegations of criminal  
22 activity. The mandatory nature of the  
23 memorandum requires clarification."

24 End of document.

25 **MS. HUGHES:** I'm sorry. There has been an



1 error. The directive has not been included. I'm sure I  
2 can get that for you.

3 **MR. MANSON:** Well, perhaps for the time  
4 being you could explain the nature of the discretion that  
5 you refer to. I'm speaking of the discretion, apparently,  
6 that the chief administrator, which would usually be the  
7 area manager, might exercise.

8 Can you explain the nature of that  
9 discretion?

10 **MS. HUGHES:** I can't recall from this. What  
11 I would suggest is that based on the nature of the  
12 allegation that would be where the discretion would lie.

13 **MR. MANSON:** I see. But quite clearly it  
14 was Ministry policy that allegations of criminal activity  
15 could come to the attention of senior managers and they  
16 could choose not to advise the police?

17 **MS. HUGHES:** From what I understand,  
18 correct.

19 **MR. MANSON:** Thank you.

20 Can I ask you a question about the LSI-OR?

21 **MS. HUGHES:** Yes.

22 **MR. MANSON:** How many bins are offenders  
23 grouped into under the LSI-OR?

24 **MS. HUGHES:** How many?

25 **MR. MANSON:** Bins or categories.

1                   **MS. HUGHES:** In the new model there are four  
2 streams as far as the new service delivery model. The  
3 basic rehabilitative ---

4                   **MR. MANSON:** No, no, that's not what I'm  
5 speaking of.

6                   **MS. HUGHES:** Okay.

7                   **MR. MANSON:** I'm speaking of the risk  
8 assessment tool, the LSI-OR.

9                   **MS. HUGHES:** I'm not understanding what you  
10 mean by bins.

11                   **MR. MANSON:** Well, at one time, I  
12 understand, that it divided people into three categories,  
13 low risk, medium risk or high risk.

14                   **MS. HUGHES:** That's right.

15                   **MR. MANSON:** Does it now divide them into  
16 five categories, low, very low, medium, high, very high?

17                   **MS. HUGHES:** No.

18                   **MR. MANSON:** So it's still three ---

19                   **MS. HUGHES:** No, they are streamed into the  
20 service streams now.

21                   **MR. MANSON:** No, no, no. I'm sorry. When  
22 the instrument is applied to someone -- I'm not interested  
23 in where they're streamed after an assessment of risk is  
24 made. I'm just interested in the categories of risk. Do  
25 we still have low, medium and high?

1 MS. HUGHES: No.

2 MR. MANSON: What categories of risk does  
3 the instrument now produce?

4 MS. HUGHES: I do not call it  
5 categorization. They are streamed.

6 MR. MANSON: Well, maybe you can tell me the  
7 streams that the instrument now produces.

8 MS. HUGHES: Basic rehabilitative individual  
9 and intensive.

10 MR. MANSON: Basic rehabilitative individual  
11 and intensive. Do those correlate to any category of risk?

12 MS. HUGHES: Not necessarily.

13 MR. MANSON: Do probation officers still  
14 apply the LSI-OR before they prepare a pre-sentence report  
15 for example?

16 MS. HUGHES: It is not a mandatory  
17 requirement. Certainly, it can be used as a guideline. We  
18 have looked at that as far as a standard. It has been  
19 discussed.

20 MR. MANSON: When did the streaming come  
21 into play?

22 MS. HUGHES: With the service delivery  
23 model, around 2000.

24 MR. MANSON: Now, before that time PSRs  
25 would commonly include the LSI-OR results of low, medium or

1 high risk?

2 **MS. HUGHES:** Not really. I really -- we  
3 have been taken to task by different courts because of the  
4 application of LSI and so it was not a standard  
5 requirement.

6 **MR. MANSON:** So you're objecting to my use  
7 of the word "commonly"?

8 **MS. HUGHES:** Yes.

9 **MR. MANSON:** And when you say here we're  
10 "taken to task", can you explain what you mean by that,  
11 please?

12 **MS. HUGHES:** A number of crown attorneys and  
13 courts have not wanted us to use the LSI standard. The PSR  
14 is to be this history, the background, what are the risks.  
15 Probation officers are not to include "An LSI score states"  
16 -- you know, of 6 says that -- they are not to address that  
17 in a PSR.

18 **MR. MANSON:** But was it ever the policy of  
19 the Ministry ---

20 **MS. HUGHES:** No.

21 **MR. MANSON:** --- to encourage probation  
22 officers to do that?

23 **MS. HUGHES:** No. They might use it as a  
24 guideline but not to include it in the PSR.

25 **MR. MANSON:** Can I ask you just a few

1 questions about conditional sentencing? Yesterday, I  
2 believe, you said that there are some approved treatment  
3 programs and you gave as an example ---

4 **MS. HUGHES:** CAMH.

5 **MR. MANSON:** CAMH. Can you tell me under  
6 what authority and how it has been approved?

7 **MS. HUGHES:** No, I don't know that.

8 **MR. MANSON:** Are you suggesting that simply  
9 because it's used often and is a reliable treatment source  
10 that that's why you think it's approved?

11 **MS. HUGHES:** No. I really do not know. I  
12 just know that it has been approved. I do not know how or  
13 what ---

14 **MR. MANSON:** Why do you think it's been  
15 approved?

16 **MS. HUGHES:** Because we are allowed to use  
17 it. It has been -- we are advising probation officers that  
18 they may use it as a treatment program.

19 **MR. MANSON:** I would suggest to you that the  
20 Ontario policy is that any treatment program run by a  
21 professional who is licensed to practice in Ontario is  
22 considered an approved treatment program, and that there is  
23 no instrument or protocol for approving treatment programs  
24 in Ontario.

25 **MS. HUGHES:** I am not aware.

1                   **MR. MANSON:** So you ---

2                   **MS. HUGHES:** All I know is that with our own  
3 programs there is an accreditation process. Whether that  
4 meets -- that doesn't necessarily mean it's an approved  
5 treatment. I'm sorry, sir, I don't know.

6                   **MR. MANSON:** Can we go back to electronic  
7 monitoring for a second? Isn't it true that in the mid-  
8 nineties it was your Ministry's policy that electronic  
9 monitoring not be used as a sentencing tool, that it be  
10 used for correctional purposes and not sentencing purposes?

11                   **MS. HUGHES:** It wasn't used in the community  
12 back in the nineties. It was used as an institution  
13 program when offenders were allowed to go out and the  
14 institution basically monitored their whereabouts.

15                   **MR. MANSON:** But it was the Ministry policy  
16 not to use it for sentencing purposes?

17                   **MS. HUGHES:** At the time because it was not  
18 a community program.

19                   **MR. MANSON:** And a number of judges demanded  
20 that senior Ministry officials came to appear in front of  
21 them to explain why they couldn't use electronic monitoring  
22 as an adjunct to conditional sentence orders?

23                   **MS. HUGHES:** Certainly, there were meetings  
24 with senior management and some of the judges with ---

25                   **MR. MANSON:** No, I'm not talking about

1 meetings. I'm talking about in open court.

2 **MS. HUGHES:** I'm not aware of that.

3 **MR. MANSON:** You're not aware that some  
4 judges demanded or subpoenaed senior Ministry officials to  
5 come to court to explain why electronic monitoring wasn't  
6 available for sentencing purposes?

7 **MS. HUGHES:** In the 1990's?

8 **MR. MANSON:** Yes.

9 **MS. HUGHES:** No, I'm not aware. I know that  
10 2000 -- certainly after 2000 there were subpoenas to some  
11 of our legal service advisors to attend court to explain  
12 that, but we did not introduce electronic surveillance or  
13 electronic monitoring until -- with conditional sentences.  
14 That's when we responded to some of the judge's issues  
15 around conditional sentence, home curfews and house arrest.

16 **MR. MANSON:** I guess my real question is  
17 under what authority does the Ministry of Correctional  
18 Services make decisions about whether tools that they have  
19 will be available to courts for sentencing purposes?

20 **MS. HUGHES:** I believe it's under one of the  
21 sections of the NCS Act. The Ministry has the right and  
22 the obligation as far as the administration of the  
23 sentence.

24 **MR. MANSON:** The right and the obligation to  
25 do what?

1                   **MS. HUGHES:** Administer the sentence that is  
2 imposed by the court.

3                   **MR. MANSON:** That's not my question. My  
4 question is: Under what authority does the Ministry make  
5 policy that certain tools that they have will not be  
6 available to a sentence in court, like electronic  
7 monitoring, as an example?

8                   **MS. HUGHES:** Well, certainly, there has to  
9 be research done on it. There's a cost-effectiveness ---

10                  **MR. MANSON:** No, no, no, excuse me. I'm not  
11 asking the basis for the decision. Under what ---

12                  **MS. HUGHES:** You're asking the authority.

13                  **MR. MANSON:** --- legal authority?

14                  **MS. HUGHES:** We have to take direction from  
15 the court. The Ministry has to take direction from the  
16 court.

17                  **MR. MANSON:** But my question is, in the mid-  
18 nineties I suggested to you that it was Ministry policy  
19 that electronic monitoring be available for correctional  
20 purposes, not sentencing purposes, and I'm asking under  
21 what authority the Ministry could develop a policy that  
22 denies a sentencing tool to a judge?

23                  **MS. HUGHES:** I really don't know, sir. I'm  
24 really having difficulty understanding your question.

25                  **MR. MANSON:** Well, my question is this:



1 Yesterday, you said you were open 24 hours a day, seven  
2 days a week and ---

3 **MS. HUGHES:** No, I said probation and parole  
4 offices are not and, yet, there is a requirement with a  
5 house arrest or home curfew.

6 **MR. MANSON:** No, no, let me just finish for  
7 a second.

8 You suggested that if more people are put on  
9 probation you would have to deal with that, that you're  
10 always open for business.

11 **MS. HUGHES:** Yes.

12 **MR. MANSON:** And that's absolutely true.

13 Why with a tool like electronic monitoring  
14 does -- can the Ministry assume that they can deny it to  
15 the courts for sentencing purposes as a matter of policy?  
16 Under what authority can the Ministry do that in the mid-  
17 nineties?

18 **MS. HUGHES:** I don't see where -- I don't  
19 know. I don't know. I don't think that it has been  
20 denied. The implementation is ---

21 **MR. MANSON:** Well, I can refer you to the  
22 cases where ---

23 **MR. ROULEAU:** I have to object. Let the  
24 witness finish the answer.

25 **MR. MANSON:** I'm sorry.

1                   **MS. HUGHES:** I guess, sir, I'm having  
2 trouble understanding.

3                   When a court has asked for a condition of  
4 electronic supervision and if it is available, then, fine.  
5 We are obligated to do it because of the order of -- if it  
6 is available. Physically, often some of the parts of the  
7 province didn't have it over the last while until recently.  
8 So I suggest that if the Ministry is capable the Ministry,  
9 yes, must respond to the request of the court.

10                  **MR. MANSON:** I'm not talking about now. I'm  
11 talking about 1996 when the conditional sentence -- would  
12 you like me to refer you to some of the cases? Your  
13 ministry even went to the Ontario Court of Appeal,  
14 suggesting that you should have the ultimate authority in a  
15 case called *Shahnawaz*, but there were a number of cases. I  
16 can refer you to them.

17                  You're suggesting that -- is your answer  
18 that you don't know that it was the Ministry policy or that  
19 it wasn't the Ministry policy?

20                  **MS. HUGHES:** I do not know then that it --  
21 why it was not the policy. Is that ---

22                  **MR. MANSON:** No, now your syntax has  
23 confused me.

24                  **MS. HUGHES:** Okay.

25                  **MR. MANSON:** Is your answer that it wasn't

1 the policy to deny electronic monitoring to court use or  
2 that you don't know that that was the policy?

3 I'm just trying to be fair. There's a big  
4 difference.

5 **MS. HUGHES:** If the policy was there that  
6 said it was available to some courts, it was available to  
7 some courts for some sentencing purposes. If the  
8 availability was not there that's often, I know, when Legal  
9 Services were called to court, "Why was it not available?"  
10 The Ministry's position is that we have to respond to all  
11 of the requests of the court. The court directs what the  
12 Ministry must provide to offenders. If we are unable to do  
13 it, then, yes, we have asked legal counsel to speak with  
14 the courts. Under what authority, I'm sorry, I don't know.

15 **MR. MANSON:** Well, I don't want to take up  
16 any more of the Commission's time but I would suggest to  
17 you in the mid-nineties it was your policy not to provide  
18 electronic monitoring for sentencing purposes and that  
19 judges who wanted to consider that option had to demand  
20 that senior Ministry officials come to court, not to tell  
21 them it wasn't available but so that they could be ordered  
22 to do it.

23 Thank you, Ms. Hughes.

24 **THE COMMISSIONER:** Thank you.

25 It might be time for the break. So we'll

1 come back in 15 minutes.

2 **THE REGISTRAR:** Order; all rise. Veuillez  
3 vous lever. The hearing will recommence at 11:25.

4 --- Upon recessing at 11:12 a.m./

5 L'audience est suspendue à 11h12

6 --- Upon resuming at 11:31 a.m.

7 L'audience est reprise à 11h31

8 **THE REGISTRAR:** Order; all rise. Veuillez  
9 vous lever.

10 This hearing of the Cornwall Public Inquiry  
11 is now in session. Please be seated. Veuillez vous  
12 asseoir.

13 **THE COMMISSIONER:** Mr. Lee, how are you  
14 doing today?

15 **MR. LEE:** Good morning, Mr. Commissioner.  
16 I'm well. How are you?

17 **THE COMMISSIONER:** Can't complain.

18 **MARG HUGHES, Resumed/Sous le meme serment:**

19 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE:

20 **MR. LEE:** Good morning, Ms. Hughes. My name  
21 is Dallas Lee. I'm counsel for the Victims Group.

22 I'd like to take you to your outline of  
23 evidence at page 20.

24 The screens aren't up. There we go.

25 So this is where at bullet 5.7 you discuss

1 the supervision and case management of adult offenders, and  
2 you break it down through the process here. I'd like to  
3 start with intake.

4 Now, intake, it reads:

5 "This includes a process of gathering  
6 basic personal information, reviewing  
7 the supervision document with the  
8 offender and considering other readily  
9 available information such as the OTIS  
10 system."

11 Within the probation and parole office who  
12 generally is responsible for the intake?

13 **MS. HUGHES:** A probation and parole officer.  
14 It might be the one who is assigned to the case or it might  
15 be a specific intake officer. This could be done also at  
16 court. There could be an intake officer at court, right at  
17 court doing this, but there is a probation officer who is  
18 responsible for doing it.

19 **MR. LEE:** So just to be clear, it's possible  
20 that there is a specific probation officer who is assigned  
21 to do all intakes?

22 **MS. HUGHES:** In some offices if they're set  
23 up that way. Others, all probation officers do the intake.

24 **MR. LEE:** Do you know what the situation  
25 here is, here in Cornwall?

1                   **MS. HUGHES:** No, I don't?

2                   **MR. LEE:** Do you have any idea historically  
3 what the situation would have been in Cornwall?

4                   **MS. HUGHES:** No.

5                   **MR. LEE:** So suffice to say that it's  
6 possible that all of the probation officers were doing  
7 intakes or perhaps one was assigned the job; is that  
8 correct?

9                   **MS. HUGHES:** Correct.

10                  **MR. LEE:** Generally, when is a file  
11 assigned? Is it assigned before intake or after intake?

12                  **MS. HUGHES:** It could be done after intake  
13 because it can be determined that the case requires the  
14 expertise of one of the probation officers if they're doing  
15 the assignment that way. So it could be after intake or if  
16 it's on a rotational basis and the offender walks into the  
17 office and the probation officer is free, the intake can be  
18 done right then and there.

19                  **MR. LEE:** Okay. So you might take a look at  
20 what you're dealing with before you decide which PO was  
21 going to deal with it; is that correct?

22                               Now, you also mentioned a few times the OTIS  
23 system, being the "Offender Tracking Information System".  
24 When did that system go online?

25                  **MS. HUGHES:** I can't remember the exact

1 date. I know that prior to this it was the OMS, "Offender  
2 Management System" and that was approximately 1990. That  
3 was in place probably for five or six years as the OTIS  
4 system was being developed. So it could be about eight  
5 years or so that it's been in service. I am not accurate  
6 on that.

7 **MR. LEE:** Was the OMS system electronic as  
8 well?

9 **MS. HUGHES:** Yes.

10 **MR. LEE:** Was that the first electronic  
11 management system?

12 **MS. HUGHES:** Yes.

13 **MR. LEE:** So what was the -- the reason I'm  
14 asking, on page 20 of your outline you have the title  
15 "Documentation" and it reads:

16 "Notation must be made of all contacts  
17 with the offender and the collaterals  
18 on the Ministry's OTIS system".

19 **MS. HUGHES:** Correct.

20 **MR. LEE:** Were all contacts with the  
21 offender noted in the OMS system before OTIS came online?

22 **MS. HUGHES:** I believe that it was still the  
23 hard copy case notes. I'm not sure. Offender management  
24 at that point, it was -- you could tell where an offender  
25 was located in an institution or if you put in your name,

1 let's say, and it would tell you what probation office it  
2 was assigned to, but I don't recall whether the case notes  
3 were actually allowed to be done on the computer with the  
4 OMS.

5 **MR. LEE:** Let me ask you this, in the period  
6 before OMS and OTIS when it was hard copies, was there  
7 still a requirement that all contact with the offender be  
8 documented?

9 **MS. HUGHES:** Yes.

10 **MR. LEE:** Do you know when that would have  
11 begun, or as far as you know that's always ---

12 **MS. HUGHES:** From day one. I mean, some of  
13 the historical documents that we've provided indicate back  
14 in 1961 even how case notes were to be made and case  
15 histories were to be written.

16 **MR. LEE:** So if you received a telephone  
17 call from an offender you would document it?

18 **MS. HUGHES:** Yes.

19 **MR. LEE:** If you made a visit with the  
20 offender?

21 **MS. HUGHES:** Yes.

22 **MR. LEE:** What about something in the  
23 community, if you went to a movie and ran into an offender  
24 and had a chat?

25 **MS. HUGHES:** Not necessarily unless there



1 was something that was, I would suggest, specific to it.  
2 If you are making a date to run into the offender I would  
3 think that, yes, that would be noteworthy, but you pass him  
4 at a movie, I don't think it would be noteworthy. It  
5 wouldn't be -- I don't think it would require documentation  
6 unless, as I say, the offender was in the company of  
7 somebody they shouldn't have been in the company of or they  
8 were out beyond curfew or there was something that was  
9 contrary to the conditions of the probation order.

10 **MR. LEE:** So unless there was some substance  
11 to the meeting or run in then perhaps not?

12 **MS. HUGHES:** Perhaps not.

13 **MR. LEE:** Turning to page 23 of your  
14 outline, you deal with enforcement and you being that  
15 section by writing:

16 "When an offender fails to comply with  
17 the condition of the order, legislative  
18 authority provides for revocation of a  
19 probation order or enforcement action."

20 And underneath, under "enforcement" it  
21 reads:

22 "A primary role of the probation  
23 officer is to ensure the offender's  
24 compliance with the conditions of the  
25 probation order, and when there is non-

1 compliance to make an enforcement  
2 decision and take appropriate action."

3 Now, am I correct in understanding that it  
4 is the probation officer who makes an enforcement decision?

5 **MS. HUGHES:** Yes.

6 **MR. LEE:** And is that a discretionary  
7 decision?

8 **MS. HUGHES:** Yes. The example that I used  
9 yesterday is perhaps the offender is found out, you know,  
10 five minutes after nine o'clock and the home curfew is nine  
11 o'clock. It's a one-time instance.

12 Yes, that the probation officer has the  
13 discretion not to go ahead and lay the charge.

14 **MR. LEE:** And you then go onto to set out  
15 some of the enforcement actions, being specifically the  
16 parole officer can take no action.

17 **MS. HUGHES:** M'hm.

18 **MR. LEE:** There can be verbal or written  
19 cautions.

20 **MS. HUGHES:** M'hm.

21 **MR. LEE:** There can be increased  
22 supervision. There can be variation or the offender can be  
23 charged with failure to comply with the probation order.

24 **MS. HUGHES:** Correct.

25 **MR. LEE:** Is that correct?

1                   **MS. HUGHES:** Correct.

2                   **MR. LEE:** What did -- what do you mean by  
3 increased supervision? What could that entail?

4                   **MS. HUGHES:** Perhaps, instead of the  
5 offender reporting once every two weeks or asked to come in  
6 and are reminded of the conditions of the order you know  
7 once a week and "let's see what you're doing" and get a  
8 history on what's going on in the week rather than just  
9 meeting once every two weeks or once every three weeks. So  
10 increased reporting: increased reporting to even the  
11 collateral contacts, "Has he shown up for work?" that kind  
12 of thing. "How is he doing at home?" So increased  
13 reporting, it could also include increased contact with  
14 collateral reports.

15                   **MR. LEE:** And what do you mean by variation?

16                   **MS. HUGHES:** Variation to the order. Let's  
17 say the offender has a nine o'clock curfew and he's  
18 obtained employment that goes until nine o'clock and it  
19 takes him half an hour to get home. The probation officer  
20 has to make an application for a variation to the order to  
21 vary the condition of the order to allow -- if that is a  
22 purposeful and reasonable request, and to have a condition  
23 of the order varied.

24                   **MR. LEE:** So that sounds to me like that  
25 would be a reasonable accommodation based on grounds if it

1 will help the offender out because there's a legitimate  
2 reason to.

3 **MS. HUGHES:** Correct.

4 **MR. LEE:** Can it go the other way? Can the  
5 variation be punitive in any way?

6 **MS. HUGHES:** No, I don't believe that you  
7 can make a more onerous condition. You can't vary it to  
8 make it more onerous.

9 **MR. LEE:** That's not the probation officer's  
10 role; is that correct?

11 **MS. HUGHES:** No.

12 **MR. LEE:** And then, finally, the ultimate  
13 step would be to charge the offender with the failure to  
14 comply; is that correct?

15 **MS. HUGHES:** Correct.

16 **MR. LEE:** And is it the probation officer  
17 himself that would lay that charge?

18 **MS. HUGHES:** Yes.

19 **MR. LEE:** Would you agree with me that being  
20 charged with a failure to comply as an offender is a fairly  
21 serious charge?

22 **MS. HUGHES:** As a probation officer, yes.

23 **MR. LEE:** You set out, as well on page 23,  
24 the fact that it's a hybrid offence and the summary  
25 conviction has a maximum penalty not exceeding 18 months in

1 jail or a fine not exceeding \$2,000 and the indictable  
2 conviction has maximum penalty of imprisonment not  
3 exceeding two years. So those are fairly significant  
4 consequences?

5 **MS. HUGHES:** Correct.

6 **MR. LEE:** If I can take you to page 39 of  
7 your outline. At the bottom of the page under Ministry  
8 Accountability Mechanisms, the first line under Section  
9 10.1 reads,

10 "Historically, Probation and Parole  
11 standards focused on highly defined and  
12 mandated expectations for offender  
13 supervision with the measure being  
14 based on the frequency of contact."

15 What exactly do you mean by frequency of  
16 contact there?

17 **MS. HUGHES:** Well, based on the assessment.  
18 Prior to this change to the new service delivery model, if  
19 a client was assessed as a minimum risk to re-offend with  
20 minimum needs, they might only be required to report once  
21 per month; so frequency of reporting. Whereas if in the  
22 old system, they were assessed at high risk, the reporting  
23 would include twice monthly collateral contacts perhaps  
24 twice a month attendance at programming, that kind of  
25 thing. So frequency of reporting to the probation officer.

1                   **MR. LEE:** My understanding is that Section  
2                   10 deals with accountability, so specifically in this  
3                   Section 10.1, you're dealing with the case audit process.

4                   **MS. HUGHES:** Correct.

5                   **MR. LEE:** Which my understanding is where  
6                   there is some kind of review of the probation officer's  
7                   work; is that correct?

8                   **MS. HUGHES:** Correct.

9                   **MR. LEE:** So in this case, where you write  
10                  that "expectations for offender supervision with the  
11                  measure being based on the frequency of contact", are you  
12                  referring to the fact -- am I correct in reading that that  
13                  refers to the fact that the parole officer's performance  
14                  will be judged in some part on how often he was keeping  
15                  contact with the offenders?

16                  **MS. HUGHES:** There would be a standard where  
17                  the area manager who was reviewing, completing the case  
18                  audits, I mean if you took a look at the LSI in the old  
19                  system, and it came through where a number was a number 12  
20                  and it was a medium risk offence, there was an established  
21                  requirement, a prescriptive term of reporting or frequency  
22                  of reporting and so to audit the case, the area manager  
23                  could look at the LSI and make sure that the standard was  
24                  met that; if it was a medium case or a maximum case that  
25                  the number and frequency of reporting matched the

1 requirement under the LSI standard.

2 MR. LEE: So if the LSI standard says that  
3 the offender needs to report twice a month ---

4 MS. HUGHES: M'hm.

5 MR. LEE: --- the case audit would comprise  
6 of making sure that there was a report twice a month.

7 MS. HUGHES: Exactly.

8 MR. LEE: Would there be any variation  
9 therein? For example, is it possible for a probation  
10 officer to use his discretion to check in on an offender  
11 three times in the month, even though ---

12 MS. HUGHES: Yes.

13 MR. DUMAIS: Would that be seen positively,  
14 generally?

15 MS. HUGHES: Yes, if that's a requirement.  
16 Yes.

17 MR. LEE: So it's an indication of good work  
18 that you're on top of your files and you are checking in on  
19 the offender more often than you need to?

20 MS. HUGHES: If it was seen that there was a  
21 reason, yes, that it required you know, an increase in the  
22 reporting, yes.

23 MR. LEE: Now, you write that in 1995, a  
24 memorandum to the field introduced the first formal  
25 direction regarding case audits. Can I assume from that,

1 that there was no formal policy before 1985?

2 **MS. HUGHES:** Well again, if we go back to  
3 some of the historical documents that were provided,  
4 there's memorandum about supervisors reviewing cases and  
5 sitting -- I don't want to say informally, but less  
6 formally than what was presented in '95. So certainly  
7 there is a checks and balance system introduced. It's just  
8 not as formally presented as what is presented at that  
9 time.

10 **MR. LEE:** So earlier on, from your  
11 understanding as you put here, the case audits evolved from  
12 a cursory review; often a discussion of the cases by the  
13 area manager to a more -- it was a more formalized process?

14 **MS. HUGHES:** Yes.

15 **MR. LEE:** So before that more formalized  
16 process there were case reviews going on ---

17 **MS. HUGHES:** Yes.

18 **MR. LEE:** --- but perhaps they weren't  
19 mandated.

20 **MS. HUGHES:** And the process wasn't as  
21 prescriptively placed as what it was being introduced as  
22 doing. That's part of the evolution therein and the  
23 process of it.

24 **MR. LEE:** Prior to 1985 when these cursory  
25 reviews, as you call them, do you -- is it your



1 understanding that those reviews were documented?

2 **MS. HUGHES:** I believe they were supposed to  
3 be. Yes.

4 **MR. LEE:** Generally, do you know what would  
5 be reviewed? Would it just be the case as a whole or would  
6 it be the probation officer specifically that was being  
7 reviewed?

8 **MS. HUGHES:** No, all cases; again, there was  
9 a requirement about reviewing the case notes and the actual  
10 hard copy file for a number of cases and specifically  
11 parole issues at that time were a little serious and were  
12 elevated. So those cases were always reviewed as well.

13 **MR. LEE:** So each individual case was  
14 reviewed to ensure that it was going properly?

15 **MS. HUGHES:** Not necessarily every case. If  
16 an officer is carrying 95 cases and an area manager might  
17 have 10 officers; to do that, to review all of those cases,  
18 would be hugely time-consuming. So they were to choose,  
19 select a number of cases just indiscriminately.

20 **MR. LEE:** Outside of this case audit  
21 process, was there a separate process whereby individual  
22 probation or parole officers were -- where they had their  
23 performance reviewed, or was this part of the package, in  
24 that while reviewing cases, that was the opportune time to  
25 ---

1                   **MS. HUGHES:** This was part of the package.  
2                   I mean, it's part of the continuum and it evolved into  
3                   staff training requirements. Yes. I mean, that was the  
4                   basis I would suggest, of the review of probation officers.

5                   **MR. LEE:** Because obviously when you're  
6                   reviewing a probation officer's files it's a pretty good  
7                   opportunity to review his work in general as well?

8                   **MS. HUGHES:** M'hm.

9                   **MR. LEE:** The last area I'd like to take you  
10                  to is Part 10.4, which is on page 42 of your outline. This  
11                  deals with the conflict of interest policy.

12                  You begin that section by noticing that the  
13                  provincial government defined conflict of interest in 1984.  
14                  And then in 1986, you note that the Correctional Services  
15                  directive reminded employees of the *Public Service Act*  
16                  requirement and that's at Tab 45. And then in 1989, Tab 46  
17                  is the policy directive which states that it's a  
18                  responsibility of every employee to ensure that any  
19                  relationship of a personal nature is reported. And you've  
20                  gone through that.

21                  Do you know either in 1984 or 1986 or 1989,  
22                  whether files in existence at that time were reviewed to  
23                  determine whether conflicts existed?

24                  **MS. HUGHES:** No, I don't know that. Sorry.

25                  **MR. LEE:** Do you know, in 1984, 1986

1           presumably -- in 1986, it would seem to me that when the  
2           employees were reminded by the directive that was obviously  
3           -- there would have been a little bit of talk about it or  
4           it would have been in people's minds. Do you know if  
5           employees at that point were asked whether any conflicts  
6           existed and were asked to review the files on their own?

7                   **MS. HUGHES:** No, I'm sorry. I don't know.

8                   **MR. LEE:** You don't know?

9                   **MS. HUGHES:** I don't know.

10                  **MR. LEE:** Okay. Do you know if at any point  
11           training was provided with respect to recognizing  
12           conflicts, reporting conflicts?

13                   **MS. HUGHES:** I'm not aware of that, but I  
14           would suggest my colleague, Mr. Bunton, might be aware of  
15           that.

16                   **MR. LEE:** Okay. Thank you.

17                   And finally, looking at the 1989 directive,  
18           in which it stated that every employee in the Ministry is  
19           to ensure that any relationship of a personal nature is  
20           reported; would you agree that that's a self-reporting  
21           requirement?

22                   **MS. HUGHES:** Yes.

23                   **MR. LEE:** Do you know whether or not there  
24           was anything similar to that on paper before the 1989  
25           directive?

1                   **MS. HUGHES:** No, I'm not aware.

2                   **MR. LEE:** Okay. Thank you. Those are my  
3                   questions.

4                   **MS. HUGHES:** Thank you.

5                   **THE COMMISSIONER:** Thank you.

6                   Mr. Bennett's not here, so no one for Father  
7                   MacDonald.

8                   Mr. Chisholm, from the Children's Aid  
9                   Society.

10                  **MR. CHISHOLM:** Good morning, Mr.  
11                  Commissioner.

12                  **THE COMMISSIONER:** Thank you.

13                  **MR. CHISHOLM:** Ms. Hughes, as you've heard,  
14                  I am Peter Chisholm. I'm counsel for the local Children's  
15                  Aid Society. I have no questions for you, but I would like  
16                  to thank you for your presentation and wish you a happy  
17                  retirement.

18                  **MS. HUGHES:** Thank you very much.

19                  **THE COMMISSIONER:** Thank you.

20                  Mr. Thompson, is it? Yes, thank you.

21                  **MR. THOMPSON:** Good afternoon. My name is  
22                  Chris Thompson from the Ministry of the Attorney General.  
23                  Similarly, I do not have any questions. Thank you very  
24                  much.

25                  **MS. HUGHES:** Thank you.

1                   **THE COMMISSIONER:** Thank you.  
2                   Anyone for Jacques Leduc? No  
3                   The Diocese is not present today.  
4                   Cornwall Police?  
5                   **MS. LALJI:** No questions, Mr. Commissioner.  
6                   **THE COMMISSIONER:** Thank you.  
7                   The OPP?  
8                   **MR. KOZLOFF:** No questions.  
9                   **THE COMMISSIONER:** Thank you.  
10                  The OPPA?  
11                  **MR. CARROLL:** No questions.  
12                  **THE COMMISSIONER:** All right.  
13                  Probation and Corrections. Who's going to -  
14                  --  
15                  **MR. ROULEAU:** I just have a few questions.  
16                  **THE COMMISSIONER:** Mr. Rouleau.  
17                  --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
18                  **ROULEAU:**  
19                         **MR. ROULEAU:** Good morning. If I may I will  
20                         bring you to Tab 50, which is the directive on contentious  
21                         issues policy and especially page 3 of 9, or in fact it  
22                         would be page 3 of the document, not page 3 of 9. I'm  
23                         sorry about that. Is that Tab 50?  
24                         **MS. HUGHES:** M'hm.  
25                         **MR. ROULEAU:** Page 2 and we're talking about

1 definitions of the serious incidents. Now can you  
2 elaborate a bit in terms of what would be considered a  
3 serious incident? You've talked about media but what other  
4 incidents can be in that?

5 **MS. HUGHES:** Certainly, and it's shown in  
6 the policy: a fire in an institution or an office; escape;  
7 death of a client, whether suicide or homicide, whether  
8 they're in the community or in the institution; serious  
9 injuries from assault, again both clients or employees.  
10 Those are some of the inclusions in the definition.

11 **MR. ROULEAU:** So in terms of employees, the  
12 incidents are wider than simply media attention. Right?

13 **MS. HUGHES:** Yes. I'm sorry if I, yes, gave  
14 that ---

15 **MR. ROULEAU:** For example, regarding  
16 offenders, are we talking also about sexual assault  
17 allegations or contraband and stuff like that?

18 **MS. HUGHES:** Yes.

19 **MR. ROULEAU:** Would that be considered a  
20 serious incident?

21 **MS. HUGHES:** Very much so.

22 **MR. ROULEAU:** And whether or not the media  
23 would be ---

24 **MS. HUGHES:** Very much so. Very much so.

25 **MR. ROULEAU:** Thank you.

1 I have no other questions.

2 **MS. HUGHES:** Thank you.

3 **THE COMMISSIONER:** Thank you.

4 Well, on behalf of all of us, thank you very  
5 much for coming out of retirement and assisting with us.  
6 So what are your plans now?

7 **MS. HUGHES:** I'm going to my home on Lake  
8 Nipissing, putting my boat in the water.

9 **THE COMMISSIONER:** Terrific. Best of luck  
10 to you.

11 **MS. HUGHES:** Thank you very much.

12 **MR. DUMAIS:** May I be excused, Mr.  
13 Commissioner.

14 **THE COMMISSIONER:** Thank you.

15 (SHORT PAUSE/COURTE PAUSE)

16 **THE COMMISSIONER:** Good morning.

17 **MS. MORRIS:** Good morning, Mr. Commissioner.

18 For the record, my name is Christine Morris.

19 I will be calling the two further witnesses dealing with  
20 Corrections issues; firstly, Mr. Glenn Semple, dealing with  
21 youth issues and Mr. Jim Bunton, dealing with staffing and  
22 training.

23 I call Mr. Glenn Semple, please.

24 **THE COMMISSIONER:** Thank you.

25 **GLENN SEMPLE, Sworn/Assermenté:**

1 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

2 MORRIS:

3 MS. MORRIS: Firstly, Mr. Semple, in terms  
4 of your experience, it's found at -- there's a biography at  
5 Tab 3 of Exhibit 4, dealing with your experience. Could  
6 you please describe it for the Commission?

7 MR. SEMPLE: Yes. Thank you.

8 I am currently a senior policy analyst with  
9 the Community Development and Partnership Branch in Youth  
10 Justice Services Division, which is recently transferred to  
11 the Ministry of Children and Youth Services.

12 But my career began in 1976, with the  
13 Ministry of Correctional Services as a graduate from the  
14 University of Waterloo. I started at the Ontario  
15 Correctional Institute. That was a treatment facility and  
16 still is to this day. And my other institutional  
17 experience was at the Toronto East Detention Centre in  
18 Scarborough, where I started in 1977.

19 In 1985, I became the Young Offender Unit  
20 coordinator at the Toronto East Detention Centre and I'll  
21 be speaking later about the implementation of the *Young*  
22 *Offenders Act*. I began an assignment there as the Young  
23 Offender Unit coordinator.

24 Shortly after, I went to corporate office in  
25 1986, and for a period up to about 1990, I worked as a



1 program planning officer working with young offender  
2 program and policy areas and also as the acting manager of  
3 program development and implementation.

4 Subsequent to that, I had a period of time  
5 from about 1990 to 1999, where I worked as either the  
6 acting manager of the policy unit or the acting team-lead  
7 of the policy unit as well as the assistant to the director  
8 of Young Offender Operations.

9 In 1999, I became a senior policy analyst  
10 again and as recently as 2001 to 2004, I've been active in  
11 leading an inter-ministerial team comprised of the Ministry  
12 of the Attorney General, the Ministry of Community and  
13 Social Services, Policing Services in the implementation of  
14 the *Youth Criminal Justice Act*, which is the current  
15 legislation for youth justice. And I had the pleasure of  
16 working with the federal government and was an active  
17 participant in the Coordinating Committee of senior  
18 officials for youth justice in supporting the  
19 implementation of the *Youth Criminal Justice Act*.

20 **MS. MORRIS:** Thank you, Mr. Semple.

21 I understand that you'll be speaking today  
22 with respect to the youth component of corrections in  
23 Ontario. Could you please take us through -- just list the  
24 sections of the overview document that you will be  
25 addressing, please.

1                   **MR. SEMPLE:** Yes, Ms. Morris.

2                   The sections that I will revisit, that my  
3                   colleague Marg Hughes spoke about briefly was, section 2.2  
4                   or the JDA, 2.3 YOA, 2.4, the YCJA. I'll be referencing  
5                   3.2 to changes in the youth justice system, 4.2 for  
6                   statistics, 5.2 youth probation, 5.4 duties, 5.6 the  
7                   predisposition report, 5.8 supervision plan, 5.10 other  
8                   duties, 6.5 supervision, 7.2 policies, 7.4 risk  
9                   instruments, 7.6 case loads, a reference to 7.7 regarding  
10                  agencies, 8.2 confidentiality, 10.8 for complaints, 11 I'll  
11                  be spending some time talking about safeguards, the  
12                  evolution of safeguards, 11.1 another reference to  
13                  complaints procedures, 11.2 child advocacy, 11.3 compliance  
14                  review, and then closing with several sections, 12.2, .3,  
15                  .4 and .5 dealing with records.

16                  **MS. MORRIS:** Thank you.

17                  So starting first then with the legislative  
18                  context, I understand there have been three shifts in  
19                  federal legislative approaches which have impacted on the  
20                  delivery of youth services in the last century. Could you  
21                  please take us through that?

22                  **MR. SEMPLE:** Certainly. We wanted in this  
23                  Ministry report to set the stage for the three significant  
24                  legislations that over time have impacted on the duties  
25                  that were assigned to staff, the duties that they performed

1 and the requirements. And contemporary criminal justice  
2 perspective looks back on the *Juvenile Delinquents Act* as  
3 being a significant piece of legislation for its time. It  
4 certainly was an improvement over the previous legislation  
5 in the way youth were treated and dealt with by the law and  
6 it set the tone for nearly 75 years and had enormous impact  
7 in terms of creating overarching principles to address the  
8 best interests of the child. It was essentially a welfare  
9 model, a child welfare model, and it toned staff or tuned  
10 staff to help wayward youth and not to punish them. Young  
11 people were treated as misguided youth under the law and so  
12 subsequently there was a high degree of discretion applied  
13 in order to work with children.

14 Let me be clear how children were identified  
15 in terms of age. Juveniles were as young as the age of  
16 seven and up until their 16<sup>th</sup> birthday or up to 15. There  
17 was a provincial piece of legislation that also permitted  
18 wards up to 18 to be involved in the system as well.

19 The emphasis of probation being in the  
20 *Juvenile Delinquency Act* was also a phenomenon in terms of  
21 incorporating an improved method and methodology to not  
22 substitute but to have an alternative to incarceration. So  
23 it was a great approach and admirable results were seen in  
24 terms of intervening with some of the social dimensions and  
25 controlled mechanisms, mainly the family.

1                    Probation officers were granted the  
2                    opportunity to work with families, work in the community  
3                    and follow the requests of the court, which as I said, had  
4                    a great deal of flexibility to it. Probation sentences  
5                    under the JDA could be definite but they could also be  
6                    indefinite. The goal, of course, was oriented to not so  
7                    much to time but to goals and to specific requirements of  
8                    the youth to achieve during that time.

9                    So that concludes, I think, just a -- I  
10                    wanted to make sure a brief overview was provided for the  
11                    JDA that impacted. Later I'll be going through the chart,  
12                    Ms. Morris, to perhaps show where the significance of those  
13                    legislations come in.

14                    But following a number of years, I think, of  
15                    questioning on many fronts, the downfalls, if you will, or  
16                    some of the weaknesses of the *Juvenile Delinquency Act*  
17                    there were efforts underway even in the mid-70s to try to  
18                    reform and to bring about a new piece of legislation, and  
19                    what came to pass in 1984 was the *Young Offenders Act*. It  
20                    was proclaimed in 1984 to replace the *Juvenile Delinquency*  
21                    *Act* of 1908. There was across Canada variations on the  
22                    maximum age, the interpretation of the maximum age. So it  
23                    took one year for the uniform maximum age provisions of 17  
24                    to be adopted across Canada.

25                    What is significant and most significant

1 about the move to the *Young Offenders Act* is the raising of  
2 the age of seven to the age of 12 so that incorporating, I  
3 think, one of the transformations in juvenile justice was  
4 the fact that youth in the age of 7, 8, 9, 10 and 11 were  
5 seen to be in most need of support by their parents and the  
6 child welfare system. So the legislation was now moving to  
7 a much smaller cohort age wise in terms of the specific  
8 requirements of the Act. And also in terms of what was seen  
9 as some of the disadvantages of the child welfare model was  
10 that often the discretion and the proceedings that were  
11 granted and I guess done in favour of the youth's best  
12 welfare was also seen to be an infringement on the  
13 liberties and some of the due process, and that young  
14 offenders or youth didn't enjoy and have the same rights  
15 and privileges as adults under the justice system.

16 So it was not by coincidence that it was the  
17 *Canadian Charter of Rights and Freedoms* that coincided with  
18 the -- that was established as a fundamental part of our  
19 country's constitution that among other things the *Young*  
20 *Offenders Act* came into balance with some of the legal  
21 rights issues that had been identified as one of the  
22 weaknesses.

23 So the Act was seen as a remedy for the  
24 shortcomings of the previous legislation in terms of  
25 addressing the young offenders' rights. Approach to

1 dealing with youth was more legalistic under this  
2 legislation as opposed to the JDA which was paternalistic,  
3 and the age range was 12 to 17 at the time of the charge.

4 Going to more recent history of course you  
5 can see the transformation and legislation has been active  
6 in this country and in May of 1998 the federal government  
7 actually pursued a renewal of the youth justice system and  
8 created a document entitled "A Strategy for the Renewal of  
9 Youth Justice". In it the report outlined Justice Canada's  
10 intentions in terms of reforming juvenile justice. The  
11 strategy was to bring focus to three areas, youth crime  
12 prevention, providing young people with meaningful  
13 consequences for their actions, and the rehabilitation and  
14 reintegration of young offenders.

15 The *Youth Criminal Justice Act* came into  
16 play -- into force on April 1<sup>st</sup>, 2003 and the improvements  
17 and the approaches that the YCJA are acclaimed for is  
18 particularly in using the justice system more selectively  
19 in reducing over reliance on incarceration and increasing  
20 reintegration of young people into the community following  
21 custody.

22 Ms. Morris, not every probation officer may  
23 have worked under all three of these legislative regimes,  
24 but some have. Some would talk about the consistencies  
25 that regardless of the legislation, the approach to working

1 with young people, similar young people have certain  
2 characteristics of course, but the legislation, if you were  
3 comparing and contrasting, has moved from the JDA, which  
4 was a child welfare model, to a *Young Offenders Act* that  
5 was legalistic, and maybe inordinately so, to a *Youth*  
6 *Criminal Justice Act*, which is holistic and applies  
7 principles of using the justice system selectively and  
8 reduce the over reliance on incarceration as a tool and  
9 mechanism to approach social control for young people.

10 **MS. MORRIS:** Mr. Semple, who are considered  
11 youth for YCJA, *Youth Criminal Justice Act* purposes?

12 **MR. SEMPLE:** The same age range applied, Ms.  
13 Morris, to the *Youth Criminal Justice Act* as it did for  
14 young offenders under the YOA, and that would be from the  
15 age of 12 to 17 at the time of the offence.

16 **MS. MORRIS:** Thank you.

17 Under section 3 of the overview document,  
18 historical overview of correctional services, part 3.2,  
19 changes in the juvenile corrections system. I understand  
20 you will be taking us through Exhibit 35, the chart  
21 prepared for the purposes of the Commission.

22 **MR. SEMPLE:** Yes. I will refer to the chart  
23 and the arrows that are going down the left-hand column,  
24 and they appear on the screen as pink for the period of  
25 1951 to 1971 indicating the probation services for children

1 under 16 were applied by the Ministry of the Attorney  
2 General.

3 When the transfer of Probation Services to  
4 the Correctional Services Ministry took place children  
5 under 16 were again kept -- were under the supervision of  
6 Correctional Services in that age bracket up to 1976. At  
7 which point, if I could direct your attention to the right-  
8 hand of the screen, the blue background, and again now to  
9 the pink arrow, children under 16 for probation supervision  
10 was transferred to Community and Social Services, and that  
11 arrow continues to the point where the first phase of the  
12 YOA came into play in 1984 and then the national  
13 implementation of the YOA across Canada in 1985.

14 This is the introduction and this is where I  
15 will direct your attention sort of to both sides of the  
16 screen. This is the point in provincial history where the  
17 age bracket up to 16 continued to be administered by the  
18 Ministry of Community and Social Services. And because of  
19 the uniform age Act the Ministry of Correctional Services  
20 who had been, during that period, dealing with 16 and 17  
21 year olds as adults now on April 1<sup>st</sup> of 1985 they became  
22 young offenders.

23 So these arrows from 1985 will go down the  
24 side of your screen on either margin up until the period of  
25 2003 when the services were provided briefly under the



1 Ministry of the Solicitor General and Correctional Services  
2 or Community Safety and Correctional Services, and that's  
3 where the two services were amalgamated. Then in 2004  
4 there was another transformation and all services to young  
5 offenders were placed under the Ministry of Children and  
6 Youth Services.

7 So in the history of juvenile justice there  
8 has not only been three legislative shifts but also in  
9 respect to the ministries that they were serviced by, a  
10 great deal of -- and I think a period of time where most  
11 people are familiar with a split jurisdiction within the  
12 Province of Ontario administering programs separately and  
13 differently, if you will, to young persons based on age.  
14 Then, a brief time of amalgamation under one ministry, the  
15 previous Correctional Services, if you will, and then  
16 eventually the shift to Children and Youth Services most  
17 recently. That has been heralded by critics and sceptics  
18 alike as being moved to place young persons under one roof  
19 to address children's needs in a more comprehensive way and  
20 to have one ministry responsive to all the needs of  
21 children whether they are in the youth justice system,  
22 child welfare, children's mental health. So it's seen as  
23 an improvement and an evolution in the passage of time of  
24 the administration of youth justice and meeting children's  
25 needs in this province.

1                   **MS. MORRIS:** Thank you. I'll just ask you  
2 about a couple of points in summary, then.

3                   **MR. SEMPLE:** M'hm.

4                   **MS. MORRIS:** First of all, under the  
5 *Juvenile Delinquents Act* juveniles were persons under the  
6 age of 16 upon entry into the correctional system?

7                   **MR. SEMPLE:** Yes.

8                   **MS. MORRIS:** Under the *Young Offenders Act*  
9 and the *Youth Criminal Justice Act*, so as of 1985, young  
10 offenders or youth were persons up to the age of 17 at the  
11 time of the offence?

12                   **MR. SEMPLE:** Up to the age of 17, yes.

13                   **MS. MORRIS:** Okay. So in terms of  
14 Corrections dealing with youth, the jurisdictions for doing  
15 so changed between ministries, as we can see from the  
16 chart?

17                   **MR. SEMPLE:** Yes.

18                   **MS. MORRIS:** But at the time the *Juvenile*  
19 *Delinquents Act* was in effect, 16 and 17 year olds were  
20 considered adults?

21                   **MR. SEMPLE:** That's right. That's correct.

22                   **MS. MORRIS:** Thank you.

23                   And later, under the *Young Offenders Act*, 16  
24 and 17 year olds were considered to be Phase II offenders  
25 and they were dealt with by Corrections ---

1                   **MR. SEMPLE:** M'hm.

2                   **MS. MORRIS:** --- up to 2004? So 1985 up to  
3                   2004?

4                   **MR. SEMPLE:** That's correct, yes. The only  
5                   thing -- well, the significant aspect was that the age  
6                   changed in terms of the definition in 1985. The Ministry  
7                   of Correctional Services had worked with 16 and 17 year  
8                   olds prior to that but as adults, yes.

9                   **MS. MORRIS:** Thank you.

10                   Going to Part 4 of the overview,  
11                   "Statistics" under 4.2, "Historical Juvenile Probation  
12                   Statistics", could you please give us a little bit of  
13                   comment on the table, please?

14                   **MR. SEMPLE:** Yes. Unlike the preceding  
15                   table in 4.1 that Marg Hughes presented, I must make note  
16                   that it was difficult to develop any consistency in  
17                   historical statistics with regards to the several streams  
18                   that young persons were administered by. Historians and  
19                   statisticians even of the day would submit that comparisons  
20                   should be made with caution and that very broad trends only  
21                   should be analyzed and drawn from this type of data.

22                   The historical juvenile probation statistics  
23                   nevertheless do present some interesting bits of  
24                   information and the fact that the 1950 records, at least  
25                   according to Statistics Canada, the data for Ontario that

1 was captured, indicated that there was 1,474 children  
2 administered by probation. That number -- and we took  
3 decade snapshots, it would appear, from the evidence here  
4 that in 1960 that rose to 3,122 but in 1970 it increased to  
5 4,172 and in 1980 to '81 to 5,214.

6 I'd like, Ms. Morris, to be able to speak  
7 about these errors, just for a moment, before moving onto  
8 more contemporary data.

9 The evidence appears to show that the rate  
10 of probation was growing sharply as services and programs  
11 were being created; in other words, it appeared that as  
12 communities began to increase their capability to either  
13 provide programs that probation officers had access to or  
14 were developing programs that this became a means, if you  
15 will, for courts to feel satisfied that probation can  
16 provide the kind of service; the level of supervision. So  
17 there was an increase to the use of probation and certainly  
18 certain elements we can appreciate; was the fact that  
19 children were being provided more supervisory programs and  
20 aspects that could help them.

21 That's perhaps all I would say for the  
22 historical perspective. If we could just go down in 4.2 in  
23 the section just to -- not a chart but just a few  
24 paragraphs that speak about 1996/97 just at the bottom of  
25 the page?

1                   What we're seeing in the average month-end  
2 balance during the mid-nineties is that -- and this would  
3 refer to Phase II. Again, I have to reflect that with  
4 split jurisdiction there would be data that would be  
5 collected by one ministry and/or the other, but in  
6 reflection of the month or the fiscal year for Phase II  
7 young offenders during the 1996/97 the number of clients  
8 had risen to 8,845 and there was approximately 666 young  
9 offenders involved in the Alternative Measures Program.

10                   It would be probably worth pointing out, but  
11 it's not in the report, that in the Ministry of Community  
12 and Social Services it's likely that the client base was  
13 about similar for no particular reason but client numbers  
14 seem to be somewhat near and so that would indicate in the  
15 province over 16,000 children on probation, serving some  
16 sort of probation order.

17                   Just moving a year up from that point at the  
18 bottom of the page, the average month-end balance again  
19 rises, not significantly but just a bit to 9,000 clients  
20 and 585 young offenders in Alternative Measures. This,  
21 again, reflects Phase II clients.

22                   I think what we can draw from that, again,  
23 is not only a better understanding of what Probation  
24 Services could provide but also an appreciation that  
25 working with youth in the community is the preferred

1 approach. Often, it could be seen by the judiciary as the  
2 first attempt to try to deal with less serious offences in  
3 a way that would be commensurate with the offence and also  
4 assure that the youth would get the guidance and the  
5 support and the supervision to structure his or her  
6 community life. I think it also attests to the  
7 effectiveness of that sentence.

8 I'd like to go to more current statistics.  
9 Again, current statistics with regards to the -- at the top  
10 of page 15 of our report was just very recent data provided  
11 by the National Justice Statistics Department of Justice  
12 Canada that reflects the 1998 -- sorry -- in 2003-2004  
13 Ontario reported the largest decrease in the number of  
14 youth sentenced to custody of all the provinces and that,  
15 following the long-term trend across Canada we also  
16 reported the decrease in young persons on probation between  
17 2002, a drop of 19.5 per cent, and in 2003 for a drop of  
18 19.4 per cent.

19 Ms. Morris, I think what we're all  
20 determining is that with the implementation of the *Youth*  
21 *Criminal Justice Act* there have been reported decreases in  
22 the use of custody across Canada. This has been as was  
23 determined, if you will, or as was predicted and, in fact,  
24 what was actually the architecture of the legislation was  
25 built upon to provide alternatives to custody, to address

1       problem-solving in the community wherever possible. So  
2       this downturn in probation is seen as positive. It's been  
3       indicated that issues and difficulties, if you will, may be  
4       addressed through problem-solving at the police stage using  
5       your discretion to warn a child, to caution them and so  
6       instead of relying on the formal justice system the *Youth*  
7       *Criminal Justice Act* employs discretion at the front end of  
8       the system.

9                       So we are seeing across Canada and Ontario  
10       as well a reduction in the use of the youth justice system  
11       per se and that is seen as a positive allowing the  
12       communities to support the youth through families as well  
13       as through Child Welfare and other service systems.

14                      So again, that provides a statistical  
15       overview and, I think, while the data by way of comparison  
16       has some limitations, we'd like to say that the trends have  
17       increased with the rise of programming as it were and the  
18       acknowledgement that probation is an effective program and  
19       then a decrease, if you will, simply on numbers because  
20       alternative approaches are being employed and there is more  
21       services available at the front end of the continuum that  
22       are still being developed that assist in helping kids in  
23       crisis with the law.

24                      **MS. MORRIS:** Thank you.

25                      Sir, under Part 5, "The Delivery of

1 Community Services" 5.2 "Community Sentencing Options:  
2 Youth Probation".

3 **MR. SEMPLE:** In section 5.2, Ms. Morris, we  
4 try to just provide, again, a historical perspective, a  
5 more recent history with the YOA and a contemporary  
6 approach to the *Youth Criminal Justice Act*. And it will be  
7 the nature of every part of my evidence that I'll be  
8 presenting that I would have to do a little of the JDA and  
9 then a bit of the YOA and the YCJA. So it takes a bit of -  
10 - sort of time just to be able to walk through those.

11 In terms of just generally speaking, the  
12 community sentencing options that were available under the  
13 JDA we first want to indicate that there was much greater  
14 latitude under the *Juvenile Delinquency Act* to direct the  
15 supervision of juveniles in the community by probation  
16 officers, and I believe we have Tab 10 that I'll refer you  
17 to.

18 **MS. MORRIS:** Sir, Tab 10 refers to the *Young*  
19 *Offenders Act*, Tab 9 to the *Juvenile Delinquents Act*.

20 **THE COMMISSIONER:** Thank you. Sorry, my  
21 notes are ---

22 **MR. SEMPLE:** So the section 20 of the  
23 *Juvenile Delinquency Act* applies to the provisions for  
24 probation at that time. I'm not sure if the court will  
25 take us to section 20 but that's the reference.



1           In 20(1) you see a number of the provisions  
2           that were available at that time. I won't read them all.  
3           Specifically, obviously, they are stated within a point of  
4           time. It would appear that a fine not exceeding \$25 must  
5           have been a hefty sum at that time I suppose in looking in  
6           reflection. But it did speak about placing a child in the  
7           care or custody of a probation officer or any other  
8           suitable person.

9           What I'd like to point out that's inherent  
10          within the Juvenile Court trials of the day were that they  
11          were allowed to be as informal as the circumstances would  
12          permit and no proceedings were to be set aside because of  
13          the informality or irregularity, where it appeared that  
14          the disposition of the case was in the best interest of the  
15          child.

16          Historical perspective perhaps can only give  
17          credence to the fact that everything that probation officer  
18          would be working on with the youth would likely be directed  
19          by the court. It may fall in the precise bounds of these  
20          areas or they may have, as a matter of fact, included other  
21          aspects that the judge brought to bear with the importance  
22          of the best interests of the youth being addressed. It's  
23          probably what, in terms of sentencing options, to give some  
24          description of the *Juvenile Delinquency Act*.

25          I'll move to the *Young Offenders Act*, Ms.

1 Morris, and the reference of course is Tab 10. Within the  
2 *Young Offenders Act* the section is available to us in  
3 section 20, again, similarly stated here or it's similarly  
4 numbered.

5 MS. MORRIS: Section 20 as opposed to 20.1  
6 to begin with?

7 MR. SEMPLE: Yes, please.

8 And maybe just down a screen one page. I'm  
9 just trying to look for the key word probation. If you  
10 scroll down just a -- you see in section J, "placing a  
11 young person on probation in accordance with section 23 for  
12 a specified period."

13 Under the *Young Offenders Act* the young  
14 offender probation order may have been the only disposition  
15 that was provided by the youth court judge, or there may  
16 have been a number of dispositions, as long as they weren't  
17 inconsistent with each other. I think through scrolling  
18 down you may have seen a fine, an open custody or a secure  
19 custody term, compensation or restitution, personal  
20 service, community service, seizure, forfeiture and/or  
21 treatment. A youth court judge determined the length of  
22 the probation order and normally it would not exceed two  
23 years. However, a maximum probation period of three years  
24 could be imposed when a young offender was convicted of  
25 multiple offences.

1           The exact requirements of a probation order  
2           were described in the court order and it specified the  
3           length of the term, some community conditions that the  
4           probationer must follow, requirements for reporting to a  
5           probation officer, any special conditions relating to the  
6           assessment, treatment and counseling that may be required,  
7           and other special conditions which the court would  
8           determine helpful to the young person's personal  
9           development.

10           Lastly, just making the reference -- and  
11           I'll just do this briefly -- to the *Youth Criminal Justice*  
12           *Act* just at the bottom of the page. I've included in the  
13           Ministry report a summation of the responses that have been  
14           tailored to the individual case and the YCJA did employ or  
15           has employed an expansion of the provisions under  
16           sentencing that are available to the court, and those  
17           include alternatives to custody such as attendant centres,  
18           intensive support and supervision and IRCS, intensive  
19           rehabilitation and custody sentence. And that of course  
20           indicates that there was a broader menu available to the  
21           court and for the benefit of children under the *Youth*  
22           *Criminal Justice Act*, including a range of pre-existing  
23           components under the YOA but adding to them alternatives  
24           that we probably won't speak about here but would  
25           demonstrate an advantage to working in the community with

1 children and to seeing their best interest being met  
2 through community programs.

3 **THE COMMISSIONER:** It might be a good time  
4 to stop for lunch.

5 We will resume at 2:00.

6 Thank you.

7 **MS. MORRIS:** Thank you.

8 **THE REGISTRAR:** Order; all rise. Veuillez  
9 vous lever. The hearing will reconvene at 2:00.

10 --- Upon recessing at 12:30 p.m./

11 L'audience est suspendue à 12h30

12 --- Upon resuming at 2:04 p.m.

13 L'audience est reprise à 14h04

14 **THE REGISTRAR:** Order; all rise. Veuillez  
15 vous lever.

16 This hearing of the Cornwall Public Inquiry  
17 is now in session. Please be seated. Veuillez vous  
18 asseoir.

19 **THE COMMISSIONER:** Good afternoon, all.

20 **MS. MORRIS:** Good afternoon, Mr.

21 Commissioner.

22 **GLENN SEMPLE, Resumed/Sous le même serment:**

23 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

24 **MORRIS (Cont'd/Suite):**

25 **MS. MORRIS:** Mr. Semple, do you have any

1 concluding comments in terms of section 5.2 of the overview  
2 document?

3 **MR. SEMPLE:** Yes, I do. In fact, just to  
4 conclude, the section 5.2 dealing with the community  
5 sentencing options for youth probation which covered the  
6 *Juvenile Delinquency Act*, the *Young Offenders Act* and the  
7 *Youth Criminal Justice Act* had included as our first  
8 opportunity just to assure that during the 20 years of  
9 split jurisdiction where probation services in the Ministry  
10 of Community and Social Services and the Probation Services  
11 and the Ministry of Correctional Services had protocol to  
12 administer the *Young Offenders Act*. That included access  
13 to all file information and a protocol related to the  
14 preparation of pre-disposition reports that so that if a  
15 court ordered a pre-disposition report for a 12 to 15-year  
16 old that would generally be administered by a Phase I  
17 probation officer. If the court ordered a pre-disposition  
18 for a Phase II client or a 16 and 17-year old, then a  
19 Ministry of Correctional Services probation staff would  
20 prepare that report.

21 Similarly case transfers took place on  
22 occasion, certainly when over-aged young persons in the  
23 Ministry of Community and Social Services reached the age  
24 16 they would be transferred to the Correctional Services.  
25 If however, there was other dispositions remaining or

1 paralleled this position they would likely maintain care  
2 with the same youth. That was really done on a case-by-  
3 case basis. In the Ministry of Correctional Services  
4 adults and young offenders case loads were mixed, but  
5 wherever possible and practical contact in terms of case  
6 loads was to remain separate, and certainly young offenders  
7 and adult offenders in probation offices operated by the  
8 Ministry of Correctional Services was to be minimized.

9 I think there were other duties that I'll be  
10 referring to somewhat later in the report, but we just  
11 wanted to indicate administratively the protocol between  
12 the two ministries and to highlight the probation officers  
13 working in the Ministry of Correctional Services where the  
14 field case manager that carried out all the duties,  
15 responsibilities that were required by the court during  
16 that time period.

17 **MS. MORRIS:** Thank you.

18 Moving then to section 5.4, duties of  
19 juvenile probation officers. Could you give us a  
20 description of the duties, please?

21 **MR. SEMPLE:** In terms of 5.4 we're going  
22 back to the previous legislation, the *Juvenile Delinquency*  
23 *Act*, and I'd like to just highlight the duties of probation  
24 officers with juvenile case loads, included the traditional  
25 investigation and supervision components.

1                   Historical records indicate that probation  
2 officers made investigations as they were required by the  
3 court and interestingly they were to be present in the  
4 court to represent the best interests of the child, and I  
5 think reading into that component the legislation was  
6 requiring that probation officers have an active awareness,  
7 if you will, and have a working relationship with the youth  
8 that would ensure that their best interests were being  
9 addressed that would be there to support the youth during  
10 that process. And they were to furnish the court with  
11 information as requested, and that would be either  
12 community programs that might be available, information in  
13 terms of the child's progress in school, perhaps some  
14 family circumstances, family support and circumstances such  
15 as that. And also to take charge of any child before or  
16 after trial as directed by the court, which would mean the  
17 court would be placing them into the care, if you will, and  
18 the charge and supervision of the probation officer.

19                   Given the dependency and the age of  
20 children, obviously the age group, as we indicated, was as  
21 young as seven, there was obviously a requirement to have  
22 more contact with the family or family support, such as  
23 they were. That could incorporate school visits and any  
24 other social supports that the youth may have. And we use  
25 the term "dynamic supervision" as a contemporary term, but

1 the reference is really to what probation officers must  
2 have had to subscribe to in terms of having a comfortable  
3 working relationship, which included informality as well as  
4 guidance and supervision. That was to establish a trust  
5 with the youth and to also support the findings of the  
6 court in moving the child to some new goal or to, again,  
7 some support in the community that would be of assistance  
8 to them.

9 There were some other functions later when  
10 probation transferred to the Ministry of Correctional  
11 Services from the Ministry of the Attorney General in 1972.  
12 It was later in 1974 that the probation services  
13 amalgamated with the after-care services that were inherent  
14 with the Ministry of Correctional Services, and under  
15 duties of juvenile probation officers there were officers  
16 that carried out duties of after-care as well, and that  
17 included reports on the wards -- completing reports on the  
18 wards as to their supervision. Superintendents had  
19 authority, of course, to recommend termination of wardship  
20 and the probation officer in the role of after-care officer  
21 would be able to make recommendations and also supervise  
22 and determine if the youth should be returned to a place  
23 such as a training school if they weren't abiding by the  
24 rules or they weren't progressing.

25 We also note, Ms. Morris, that the



1       legislation references in section 30 about the authority of  
2       probation officers, and we might just take a second to go  
3       to our reference for the *Juvenile Delinquency Act* in Tab 9,  
4       and in that reference section 30, I believe, when it's on  
5       the screen. It will point out that the probation officer  
6       had the authority of a constable in the discharge of their  
7       duties under the JDA and that they were protected from  
8       civil action for anything done in bonafide exercise of  
9       their powers by the *Juvenile Delinquency Act*.

10               What we know from other references is that  
11       this clause was placed there to enable probation officers  
12       to carry out their duties by law. These powers were not to  
13       be used indiscriminately. Probation officers were  
14       protected as long as they acted in the best interest of the  
15       youth and on reasonable and probable grounds. And by in  
16       large, this provision was there to establish the probation  
17       officer's authority to execute court warrants, like breach  
18       of probation, and to carry out the administration of the  
19       court as pertained to supervising youth.

20               That reflects as much as we can capture in  
21       terms of the duties of the juvenile probation officer and  
22       the activities that they would have been performing as a  
23       requirement of a court order, and it sort of sets the  
24       stage, I think, for some of the evolution of the probation  
25       officer's role, although many aspects remain the same. The

1           legislation did shift the emphasis for probation officers  
2           in executing their duties.

3                       **MS. MORRIS:** Thank you.

4                       I understand that in the following topics  
5           you'll be referring to three versions of manuals for youth  
6           corrections officers. Could you explain what prompted the  
7           creation of these manuals, please?

8                       **MR. SEMPLE:** Yes. In fact, the three  
9           versions of the manuals are found in Tab 26.

10                      The first version which was the YOA manual  
11           that was produced in preparation for April 1<sup>st</sup>, 1985.  
12           That's found at Tab 26.

13                      In Tab 27, the reference will be to the YOA  
14           Operational Policy and Procedures Manual. Its vintage is  
15           roughly 1989, with some revisions during that period. And  
16           that was a consolidation of directives that followed April  
17           1<sup>st</sup>, as well as taking all the essential components out of  
18           the original manual.

19                      Then in Tab 28, I'll be making reference to  
20           the most recent of those set of YOA manuals. It will  
21           reflect and I'll be referencing later in our safeguard  
22           section, all the additional policies and procedures that  
23           were put in place to address safeguards for young people.

24                      There will also -- you will see that in Tab  
25           27 and 28, more similarity between the two manuals in terms

1 of style, format and indexing. And 26, the original manual  
2 will represent, essentially, a compilation of a probation -  
3 - instructions to probation, directives to the operational  
4 staff and superintendents of institutions and custody  
5 facilities and then a separate text for open custody. And  
6 those were amalgamated into a binder in the original 1985  
7 implementation.

8 So that gives us reason on several of our  
9 sections to take you through three versions of the manual,  
10 but each manual was replaced by the subsequent one so in  
11 other words, staff would only refer to the manual that was  
12 in place and authorized at that time. We've gone back in  
13 history to be able to show the course of how the three  
14 manuals dealt with subject matter.

15 **MS. MORRIS:** Thank you.

16 So dealing then with 5.6, Predisposition  
17 Reports For Young Persons, could you please describe the  
18 purpose of predisposition reports or as they're known,  
19 PDRs, and the elements, please.

20 **MR. SEMPLE:** Certainly; 5.6 on the screen  
21 demonstrates the general requirements for pre-sentence  
22 reports under the *Young Offenders Act* and highlights some  
23 of the aspects, I think it's best described, that the  
24 probation officer would have to capture in addition to  
25 other data. The probation officer had to capture and

1 address the age and maturity and the character and the  
2 behaviour and attitude of the young person and their  
3 willingness to make amends. In doing so, I think the  
4 relationship of the probation officer had to be such that  
5 they could use collateral evidence and interviews to  
6 determine as much about their client as they possibly  
7 could, in representing them in this report.

8 They also had to -- and that was somewhat of  
9 a diagnostic aspect as well, in terms of what the youth  
10 could be capable of learning, what they were capable of  
11 doing, that type of thing.

12 Section 2 referenced any plans put forward  
13 and that, represented in the PDR, the approach that this  
14 was also a planning document to give the court a fair  
15 understanding of any improvements that the youth could  
16 avail themselves of and what was again likely to be  
17 achieved in a probation order.

18 Of course, in Section 3, there was findings  
19 under the previous *Juvenile Delinquency Act* that if they  
20 were rendered to be applicable that they would be included  
21 in terms of the responsivity to other approaches. And most  
22 importantly, and I think still carried through to today, is  
23 the relationship between the young person and their  
24 parents, the degree of control and the influence of the  
25 parents over the young person and the relationship between

1 the young person and the young person's extended family.

2 That in a small way, I think captures some  
3 of the age specific and requirements given that the *Young*  
4 *Offenders Act* was looking for needs as well as looking at  
5 the offence in the new offence oriented piece of  
6 legislation. And that is found in three places, Ms.  
7 Morris, in terms of referencing where probation officers  
8 would refer. In the original and first manual, you will  
9 find that under Tab 26 under a heading referenced  
10 "Predisposition Reports" and because of the approach that  
11 we took to numbering these pages, we're referencing this as  
12 the 7<sup>th</sup> page. And within that the procedures were outlined  
13 in terms of the assignment of the submission and how many  
14 copies and some of the administrative preparation. I think  
15 in my preceding comments, I've just tried to capture the  
16 essence of what the PDR was trying to grasp. This is  
17 administrative components that are there.

18 It is also reflected and should be exact or  
19 similar in Tab 27, referencing the next version of the  
20 manual. In this manual, Tab 27, we're on the 97<sup>th</sup> page.  
21 Another way staff were able to locate references was this  
22 new coding reference which YOA referenced the *Young*  
23 *Offenders Act*, in the subject heading 03 was to the  
24 probation section, 01 was to the first section and 02 was  
25 to the second subject. So in common or layman's terms, we

1 would call that YOA 03 01 02 and the staff would go to that  
2 section. You'll see the same material located there and  
3 then in Tab 28, same reference, exactly the same material.  
4 And that's located at page 1006045.

5 I think in summary, the PDR obviously  
6 reflected the requirements of the PSR, the pre-sentence  
7 report that Marg Hughes would have provided earlier today  
8 and/or yesterday and required additional information  
9 obviously with regards to the court's need for information  
10 around the family, the youth maturity and their  
11 opportunities to improve themselves.

12 **MS. MORRIS:** Thank you.

13 Dealing then with 5.8 Supervision/Case  
14 Management of Youthful Offenders.

15 **MR. SEMPLÉ:** There was an evolution in terms  
16 of supervision plans but in the earliest reference, we --  
17 and I'll start with the references in this case, Ms.  
18 Morris, if the supervision plans will be found under Tab  
19 26, page 32. It will also be found, similarly in Tab 27,  
20 YOA 03 03 03 and -- sorry -- 123<sup>rd</sup> page, located there ---

21 **THE REGISTRAR:** Okay.

22 **MR. SEMPLÉ:** --- and in Tab 28, YOA 03 03 03  
23 and the page number is 1006056.

24 As I was saying, the Ministry policy  
25 required the probation officers prepare a supervision plan

1 for young offenders based on their need and risk and this  
2 plan incorporated a variety of components including  
3 monitoring the conditions of the order, addressing  
4 priorities in terms of need and risk, being specific with  
5 measurable objectives; in other words, youth had to be  
6 aware of what their requirements were, but goals and  
7 objectives would be provided as long as they were  
8 measurable and youth could understand them. They had to  
9 establish a reporting schedule for the client and determine  
10 the youth's involvement in the plan, specify referrals to  
11 appropriate resources, specify the intended parental  
12 involvement and identify potential collateral sources.

13 Each of these aspects came down to record-  
14 keeping, if you will, and monitoring of the case and  
15 providing a plan to follow. It was equated with the plan  
16 of care. In many respects it was the operational plan that  
17 was kept by the probation officer to record, note and help  
18 to administer the case for supervision in the community.

19 **MS. MORRIS:** Moving then to 5.10. In your  
20 overview, you included this section dealing with other  
21 duties assigned to probation officers supervising youthful  
22 offenders. Could you describe this please, for us?

23 **MR. SEMPLE:** Yes. In 5.10, I inserted a  
24 paragraph on the *Juvenile Delinquency Act*, just to give a  
25 backdrop again and what we were simply indicating was that

1 under the *JDA*, under the *Juvenile Delinquency Act* the  
2 judiciary may have requested a range of other duties to be  
3 undertaken and this was obviously in keeping with  
4 supporting a wayward youth in the community. Within the  
5 *Young Offenders Act* there was a shift, predominantly based  
6 on the rights, orientation and the more offence-driven  
7 components of the legislation. And that established, more  
8 specifically, itself in terms of supervising and enforcing  
9 the court-ordered community-based sentences.

10 So there is a more focussed, if you will,  
11 attention on behaviour and on outcomes and in terms of  
12 keeping the requirements of the probation order,  
13 specifically. So that shows the shift to the *Young*  
14 *Offenders Act* and just turning to page 22 of our  
15 submission, the other duties assigned to a probation  
16 officer could be assigned to them under the legislation,  
17 under Section 37 of the *Young Offenders Act*.

18 We have in the delegation of authority  
19 manual, the reference to Section 37 but we've also captured  
20 that in our *YOA Operational Policy and Procedures Manual* of  
21 01 03 02. So I would just draw your attention to Tab 28,  
22 *YOA 01 03 02* and page 1006027. And you'll see at the top  
23 of the screen in the box on the left-hand side, Section 37  
24 that refers to the *Young Offenders Act* and indicates that,  
25 with reference to the topic assigning duties and cases to



1 youth workers, that those management positions who perform  
2 the role of a provincial director have authority to assign  
3 cases to youth workers. And those officials may request  
4 that youth workers prepare predisposition reports or  
5 progress reports and may require youth workers to perform  
6 other duties and functions not necessarily specified in the  
7 section.

8 So that's where we get the grounding for the  
9 duties to be performed under the legislation.

10 Going back to our Ministry document, the  
11 second paragraph on page 22, we reference a few points that  
12 we considered other duties as assigned. Unique in the  
13 structure, in the management of probation officers in the  
14 Ministry of Correctional Services was the role of  
15 residential liaison officers and/or institution liaison  
16 officers. And these were probation officers that had  
17 additional assignments to work with a facility, a  
18 residence, either an open custody residence or a secure  
19 custody facility. That role was specifically to assist in  
20 the case management process, to be an adjunct to the case  
21 management supervision and to also be a liaison to the home  
22 probation officer.

23 I think the way I would describe this is, it  
24 was a division of labour. It made it necessary to transfer  
25 information and progress to the home probation officer but

1       it allowed for the probation officer to be accessible to  
2       say, seven children in an open custody house, or more of  
3       course in a secure custody, and be able to perform the role  
4       of probation officer closer to where the youth was but not  
5       requiring that the distant or home community probation  
6       officer travel on a monthly basis.

7                So they performed all the duties of a  
8       probation officer but were able to do it in a cost-  
9       effective way and were able to assist in an effective  
10      manner. So that was an example of another duty as  
11      assigned.

12              They also took part in the risk management  
13      or youth management assessment of children when they were  
14      being admitted to open custody facilities and a residential  
15      liaison officer was responsible for providing all the file  
16      information that was immediately necessary and available in  
17      order to determine risk and needs of a youth entering into  
18      an open custody residence. And that was a safety measure  
19      as well.

20              So I think that -- and I made reference to  
21      the case management. That covers some of the additional  
22      duties that were provided by a probation officer under the  
23      *Young Offenders Act* and essentially put them in the role of  
24      a case manager when youth were in the custody settings --  
25      sorry in the case management team when the youth were in

1 the custody settings; and also in assisting with the  
2 assessments.

3 **MS. MORRIS:** Dealing with 6.5, then, Young  
4 Offender Probation Supervision and Community Programs. Can  
5 you provide us with an overview, please?

6 **MR. SEMPLÉ:** Yes. This reference will be  
7 highlighted in the beginning of Tab 26 and titled, Case  
8 Recording on page 8. With those references as a backdrop,  
9 the explanation in 6.5 addresses that the entire goal of  
10 probation supervision is to reduce the risk of a young  
11 person committing further offences. And risk/needs  
12 assessments are designed to focus probation officers'  
13 assessment of the characteristics of the youth which  
14 research has shown to most directly relate to their  
15 likelihood for re-offending.

16 Probation officers use these risk factors  
17 and target the intervention best suited to meet the young  
18 person's needs and it's the responsibility of the probation  
19 officer to ensure that the young person complies with the  
20 orders made by the court, and that when they do not that  
21 they take appropriate action. Therefore the impact, I  
22 think, of keeping good case recording, keeping records, is  
23 of paramount importance. And the requirements of the  
24 probation officer are obviously to log and to capture the  
25 progress and any appropriate actions that were taken to

1 bring the youth into compliance and to capture that in the  
2 records keeping that they did in the case recording.

3 I think the other point that they wanted to  
4 make in 6.5 -- and I may have made it, I guess, in terms of  
5 just recording any changes is that that was captured  
6 primarily to make decisions that would sort of lead to  
7 possibly a charge of failure to comply. When you talk with  
8 probation officers who have supervised youth, laying a  
9 charge of failure to comply is, as it was pointed out this  
10 morning, a very serious matter. But laying a failure to  
11 comply was never done frivolously. One of the challenges  
12 of probation orders, of course, is to keep the objectives  
13 within reasonable -- a reasonable means to have success, to  
14 make them attainable. If a probationer is set upon with a  
15 number of requirements that are just impossible to meet or  
16 beyond their sense of capability, then the frustration  
17 actually makes the court order not only impossible to meet  
18 but it constitutes a failure in meeting the needs of the  
19 youth.

20 So the manner in which the probation officer  
21 would capture evidence and information about the youth's  
22 capability of managing their objectives all on the record  
23 would lead the probation officer to return to those notes  
24 to really determine if the youth had made all attempts to  
25 try to comply. And then, failing any improvement, then the

1 officer would proceed with the failure to comply charge.

2 The reference to the failure to comply is  
3 found at Tab 28, specifically, I think, if we're still  
4 there, YOA 03 02 03; and that was on page 1006052. And  
5 that indicates Willful Failure in the subject heading; and  
6 its predecessor was on Tab 26, meaning the original  
7 directive was on Tab 26, page 18.

8 So in terms of what we've just indicated,  
9 the goals of the probation supervision to reduce the risk,  
10 the officer's discretion to effectively enforce the order,  
11 ensuring that the plan of supervision captured the goals  
12 and the objectives as well as the legal obligations of the  
13 youth in the probation order and the recording of success  
14 so that end of failure is to determine whether an  
15 enforcement decision had to be made.

16 It's also important, while that may invoke  
17 the enforcement components of probation supervision, the  
18 community programs aspect was also a viable and important  
19 role. Since the inception of the YOA, probation officers  
20 were able to access a wide range of in-house programming  
21 and also professional fee-for-service contracts and they  
22 also had a number of community contracts in a number of  
23 areas that were accessible to them.

24 Probation officers performed the role,  
25 therefore, as either first-hand resources for specific

1 programs; they may run an anger management program, or they  
2 may be proficient in a life skill that, in terms of  
3 instructing youth, in terms of writing a job resumé or what  
4 have you. But they could also be a broker for services and  
5 therefore apply the youth to a program that may be  
6 operating in the community and then to get them enrolled  
7 and therefore meet the requirements of the probation order  
8 in that way. So here we see the probation officer as a  
9 program deliverer or a program broker in terms of giving  
10 the youth a balanced and appropriate probation supervision.

11 As well, a program that was available under  
12 the *Alternative Measures Act* that was slow to be  
13 implemented in the province of Ontario but was available  
14 later on did demonstrate a practice that probation officers  
15 were actively involved in and received a lot of  
16 satisfaction. And that was working with youth who were  
17 seen to be eligible for a diversion from the probation  
18 services but were provided with some supervisory, sort of,  
19 context for carrying out writing a letter of apology, doing  
20 some kind of a community service and that type of thing.

21 So that probation officers found that that  
22 role was intriguing, the youth were more -- were  
23 often youth without any previous offences and  
24 they were likely more responsive to that form of  
25 correction in a staying of the proceedings and

1           the charges, depending on where in the province  
2           the Crown attorney may have had an approach on  
3           that program, indicated that the alternative  
4           measures was a viable form for probation officers  
5           to exercise their duties without the youth  
6           coming, sort of, involved in the more intense  
7           kind of programming.

8                        So that reflects young offender probation  
9           supervision and community programs.

10                       **MS. MORRIS:** Thank you.

11                        Then under Topic 7, Developments In  
12           Probation Policy; 7.2, Youth Probation Policies. Could you  
13           describe relevant policies for us, please?

14                        **MR. SEMPLE:** For the purposes of reference  
15           to the *Juvenile Delinquents Act*, we're just referring to  
16           our first -- to page 27 in our submission. And what we're  
17           highlighting specifically, is actually just drawn from the  
18           legislation, specifically that the basic responsibilities  
19           which would have been incorporated in the policy, if you  
20           will, of the day, was investigation and supervision and  
21           that the duty of the probation officer within that was an  
22           obligation to make investigations as required by the  
23           courts, to be present in court, to represent the best  
24           interest of the child; to furnish the court with  
25           information as required and to take charge of the child as

1 directed. And we've made reference to this prior, but it  
2 reflects our only available context for the policies of the  
3 day with the notation that the *JDA* permitted the court  
4 considerable latitude to address the best interests of the  
5 youth.

6 Therefore the instructions to probation  
7 officers would probably vary considerably based  
8 on the needs of the child. So it may have been  
9 hard to actually write the text that would have  
10 indicated what was specifically going to be  
11 required outside of those legislated duties.

12 Under the *YOA*, the policies of course were  
13 established mainly in the Ministry of Correctional Services  
14 under the best practices that existed for adult policies  
15 and procedures. Marg Hughes would have given those aspects  
16 in much greater detail. I think, for the purposes of our  
17 reference, I'll introduce the tabs that we would be  
18 referencing. Tab 26, for probation supervision standards  
19 on the ninth page, was the original 1985 version. Similar  
20 material is found on Tab 27, the subject number *YOA 03 03*  
21 *01*, found on the 118<sup>th</sup> page of that tab. And, finally, Tab  
22 *28* which was *YOA 03 03 01*. That was reference page  
23 *1006053*.

24 Given that many of the practical policies  
25 and procedures with regards to the administration of adult



1 cases and caseloads generally applied to youth practices.  
2 It was just the purpose of this manual to capture those  
3 that would be over and above, or those that would be  
4 necessary to bring attention to for the purposes of drawing  
5 the probation officer to the needs of the child and the  
6 particular aspects of the Youth Court.

7 Those that I would point out to you that  
8 were in existence from the period of 1985 onward to 2003 is  
9 first of all that the probation and parole standards for  
10 case supervision and case recording applied. That, where  
11 possible the second bullet point -- and maybe I'll wait for  
12 the screens to change. We would be back on ---

13 **MS. MORRIS:** Page 27 of the overview?

14 **MR. SEMPLE:** The Ministry document 27.

15 **MS. MORRIS:** Thank you.

16 So I just reference the first bullet  
17 point which is "Probation and parole standards for case  
18 supervision".

19 The second bullet point is "Where possible  
20 separate adult and YO case loads were to be established."

21 I indicated that while that was said in  
22 policy, practically, adult and YO case loads would likely  
23 be mixed in many respects and not to the disadvantage of  
24 either the adult or the youth clients.

25 Supervision levels were determined with the

1 assistance of the Level of Supervision Inventory form.  
2 There was always a clear indication that smaller caseloads  
3 allowed for more frequent contact with youth and family  
4 schools and other relevant contacts. The supervision of  
5 young persons was always seen to be more intensive;  
6 required more collateral visits and that by and large youth  
7 benefited from the additional assistance.

8           Nevertheless, there was, in keeping with the  
9 YOA principle of least interference, there were cases that  
10 could be administered essentially on administrative status,  
11 as outlined in the standards. That meant that a case did  
12 not have to be actively supervised. Whenever that was the  
13 case parents or guardians were consulted to ensure that  
14 they understood that the case was being assigned in that  
15 manner and if they had any concerns that they were to -- or  
16 if they had any difficulties they were to contact the  
17 probation officer.

18           There was also a reference that was made --  
19 given that the YOA had records-keeping requirements, is  
20 that under YOA section 43(1) the offices were to establish  
21 and maintain records to ensure the necessary and effective  
22 supervision of youth and to ensure accountability. Again,  
23 in the second to last bullet point they were required to  
24 record any significant change in the youth's status or  
25 situation while under supervision.

1                   Then, in the final bullet point, and it's  
2                   our only reference to conditional supervision, which  
3                   indicated that probation officers were responsible for the  
4                   supervision in the community of youth during a conditional  
5                   supervision portion of the combined dispositions of custody  
6                   and conditional supervision. So that was included in a  
7                   section which may not have been pulled out but was located  
8                   in 03 04 02. I apologize for not giving that reference  
9                   earlier, 03 04 02, and that may not have been tabbed.

10                   Ms. Morris, I apologize.

11                   **MS. MORRIS:** This is in Tab 28?

12                   **MR. SEMPLE:** Yes.

13                   **MS. MORRIS:** Do you wish to comment further  
14                   on this policy, Mr. Semple?

15                   **MR. SEMPLE:** The reference that I could make  
16                   is that this was an extraordinary community supervision  
17                   disposition that was in effect through an amendment in the  
18                   YOA and where the courts had -- where there was a finding  
19                   of guilt for first or second degree murder, that midway  
20                   through that custody period a probation order -- a  
21                   probation officer was assigned and they participated in a  
22                   Case Management Plan. In the plan of care process to  
23                   provide continuity of service the plan was required to be  
24                   developed during the custodial portion of the disposition  
25                   and the assigned probation officer participated in the

1 development and the coordination of the Community Placement  
2 Plan.

3 This in effect, Ms. Morris, was the more  
4 intensive of the probation supervision that could be  
5 exercised and that probation officers were skilled,  
6 although there weren't many in the cases of first and  
7 second degree murder that received conditional supervision,  
8 that probation officers had the policy and procedures in  
9 that section 03 04 02 to give them the requirements of this  
10 more intensive form of supervision which clearly depended  
11 on having a continuum between the custody's component in  
12 the community.

13 So again, it was a more intensive program  
14 that was available.

15 **MS. MORRIS:** Thank you.

16 Dealing with 7.4, "Youth Risk Instruments",  
17 could you please indicate what instruments were used for  
18 youth?

19 **MR. SEMPLE:** I will, Ms. Hughes made first  
20 introduction and reference to the Level of Supervision  
21 Inventory, Ontario Revision, LSI-OR, and in the earlier  
22 days the young offenders that were held in or sentenced to  
23 secure and open custody and probation had the LSI-OR  
24 administered. The completion of the LSI-OR was to assist  
25 staff in identifying and developing case management plans

1 for the YO, the young offender; the targeted criminogenic  
2 behaviours to reduce the level of risk and recidivism.

3 I think that one point that I'd make in  
4 terms of the Level of Risk Instrument was that it became an  
5 augment to the decision making and the community  
6 supervision as well as in some cases a greater awareness of  
7 risk and need within the custody environments. I recall my  
8 own introduction to the LSI-OR when the probation officer  
9 who was -- if you recall, I was mentioning the role of the  
10 institutional liaison officer -- was able to assist the  
11 custody staff by providing the Level of Supervision  
12 Inventory rating. It became helpful in an internal  
13 classification of the youth to determine what risks we  
14 would want to identify and mitigate in terms of improving  
15 the chances for rehabilitation and for successful re-entry  
16 into the community. So it became a planning tool and a  
17 management tool.

18 When the LSI-OR was being developed there  
19 was also a comparable mechanism by the same authors working  
20 for the Ministry of Community and Social Services to work  
21 with a younger cohort and the tool which was very similar  
22 as an instrument, both in content -- but the context was  
23 adolescence -- was known as the "Risks Needs Assessment".

24 Going into an amalgamation of the Phase I  
25 and Phase II both instruments were used, up to a point,

1 with a recent decision that the Risk Need Assessment would  
2 become the established tool that would be adopted for use  
3 for young offenders that would address both criminogenic  
4 risk factors and the needs of adolescents.

5 In comparing the two tools, the Risk Need  
6 Assessment and the LSI-OR, those would be acknowledged in  
7 terms of the empirical approach that this takes.

8 I would also recognize that if the RNA would  
9 have more adolescent samples to test the tools' validity  
10 against. So it was appropriate to consider that the RNA  
11 would become the tool of choice.

12 So that's a reference to the instruments.  
13 Yes, we used the level of instruments similar to that of  
14 the adults for a period of time and then have migrated to  
15 the adolescent-based tool.

16 **MS. MORRIS:** Thank you.

17 Dealing, then, with 7.6 "Youth Caseloads"?

18 **MR. SEMPLÉ:** Youth caseloads for the period  
19 1984 to 2004 are essentially a point of reference in terms  
20 of how the two ministries were able to approach the  
21 services being delivered to young persons in the community.  
22 The Ministry of Community and Social Services with  
23 responsibility for 12 to 15 year olds generally had  
24 caseloads of approximately 50 cases or less while  
25 Correctional Services with the older age group, 16 and 17,

1 generally supervised caseloads over 50.

2 I think, with respect, the references to  
3 caseloads bears the same cautionary note in terms of making  
4 comparisons without having more details to analyze. Mixed  
5 caseloads with adults and young offenders would have made  
6 some of the calculation of caseload size to be a bit more  
7 challenging. So it was just apparent over time that the  
8 older age groups tended to be on a higher caseload and that  
9 sometimes meant that their age and maturation didn't  
10 require as much connection with a probation officer and  
11 they had more independence, whereas the youthful Phase I  
12 young offenders would likely need more support and  
13 supervision warranting -- and by necessity having a smaller  
14 caseload to ensure contact and ongoing supervision.

15 We did record, for purposes of a period of  
16 time, and this was at one point in the mid to late  
17 nineties, the chart that's just at the bottom of section  
18 76. What that was captioning was just a couple of  
19 successes, years from 1996 to 2000, just indicating  
20 generally that the average caseload in 1996 was 69, in 1997  
21 was 74 and so on, to 77 average caseload in '98 and 76 in  
22 1999. Again, those are certainly over the ballpark figure  
23 of 50 but it indicates to a certain point the  
24 responsibilities for probation officers was to maintain a  
25 fair number of children under their care.

1                   **MS. MORRIS:** Thank you.

2                   Dealing, then, with section 8 of the  
3 overview, "Confidentiality Information Sharing", 8.2  
4 "Youth"?

5                   **MR. SEMPLÉ:** For the purposes of 8.2, which  
6 is not yet on the screen, page 33, as Marg Hughes mentioned  
7 earlier in terms of all staff in the Ministry of the  
8 Correctional Services they were required to take an oath of  
9 office. That certainly was the requirement for all staff  
10 working in any aspect of the Ministry.

11                   But the YOA and then, subsequently, the YCGA  
12 has made exacting requirements in terms of clearly  
13 requiring the matter of privacy in the identification of  
14 young offenders.

15                   Staff members are required not to have any  
16 documents except to conduct their duties in the  
17 administration of justice and there are various precise  
18 requirements in terms of acknowledging or confirming the  
19 identity of a young person.

20                   If I were to just take a step back, one of  
21 the predominant features in terms of dealing with youth is  
22 the expectation that once they've dealt with their sentence  
23 or they have been adjudicated, they have an opportunity to  
24 move on with their lives, that they could put the  
25 occurrence or the offence behind them; that they have an



1 opportunity to rehabilitate.

2 The presence of youth in the community  
3 presents challenges for probation officers and custody  
4 staff alike and so the practical application of keeping  
5 confidentiality and protecting the identity of youths adds  
6 some challenges when you're taking some youth to a ballpark  
7 to watch a baseball game or taking them to a swimming pool  
8 so they can learn to swim, and not to be able to identify  
9 them.

10 So there are some very practical and  
11 sometimes what would seem to be endless list of challenges  
12 that would sort of bring some redresses to how you could  
13 provide a comprehensive confidentiality and privacy  
14 practice across the board.

15 It was the Ministry's undertaking in  
16 December of 2000 -- and the reference I'd like to draw you  
17 to, Ms. Morris, is in Tab 34. This document which is  
18 titled -- if it scrolled down -- it was called "Young  
19 Offender Confidentiality and Privacy" and it was a policy  
20 framework.

21 This was originally written and drafted for  
22 the *Young Offenders Act* and then was subsequently amended  
23 to incorporate the impact of the YCGA. This became more of  
24 an information guideline for staff to be able to talk about  
25 the real practical applications of when information could

1 be shared and who to share it with. For instance, with  
2 schools, if a youth was returning to school, if they were  
3 on probation and they were in school, the teachers' need to  
4 know would obviously have to be balanced with the rights  
5 and the responsibilities of the Ministry in terms of  
6 disclosing.

7 There is almost a rule that seems to come  
8 out that says that the information that is disclosed is on  
9 a need-to-know basis and it clearly, in this disclosure of  
10 information section, did some working operations and maybe  
11 since I mentioned the school, just going down there, I'll  
12 just give you an example. I just wanted to show you how  
13 practical the school application would be, sorry.

14 **MS. MORRIS:** It's at page 26 of the  
15 document.

16 **MR. SEMPLE:** Thank you.

17 So here it relies on the -- this could be  
18 the probation officer, for instance, working and that would  
19 be -- references the Ministry staff -- that local  
20 information sharing agreements would have to be established  
21 such as school authorities to facilitate efficient and  
22 cooperative practices.

23 So if we just scroll down on the screen, it  
24 will give some of the procedures in terms of the kind of  
25 reports that would sort of be necessary, for instance, for

1 a probation officer to get information. They may not --  
2 they may have to declare that they're gathering information  
3 for a specific purpose, but they would also have to give a  
4 warning or advisement that subsequent disclosure by the  
5 recipient of that information would also carry with it the  
6 obligations under the legislation.

7 And so, if you just scroll to the next step  
8 -- I don't have my book in front of me -- so it's just to  
9 indicate that in the case of cooperating with the schools  
10 is that the probation officer would likely work with a  
11 representative from the school board that would be  
12 established in the protocol or the school and/or the  
13 education or training institution. And that may be just  
14 one individual that would incorporate that information, but  
15 it may not be the teacher of the classroom.

16 Again, that may not be a perfect example,  
17 but it might indicate for any one of us that in terms of  
18 how we would go about administering and exercising the  
19 confidentiality aspects. Where it might be very -- where  
20 it may be less subjective is in terms of records that you  
21 wouldn't disclose records, that you would maintain files  
22 confidentially, but when it came to reintegrating the youth  
23 into the community or trying to re-establish them and  
24 repatriate them in their school or in their home is that  
25 there were certainly clear challenges in terms of

1 maintaining that aspect.

2 These guidelines were, as I say, produced in  
3 December of 2000, and they were issued to establish some  
4 working guidelines and these continue to be revisited and  
5 examples, if you will, to capture some of the realities in  
6 terms of trying to make sure that young persons are able to  
7 maintain the right that they have to confidentiality.

8 **MS. MORRIS:** Thank you.

9 Sir, I understand that you will be dealing  
10 with section 10.8, "Youth Complaints: Investigations and  
11 Mechanisms of Response" together with section 11,  
12 "Safeguard Initiatives for Young Persons in Correctional  
13 Services"?

14 **MR. SEMPLE:** Yes, that's correct.

15 **MS. MORRIS:** All right.

16 Sir, I understand that you've picked up on  
17 something that should be changed in the Overview at page  
18 47, in the last paragraph?

19 **MR. SEMPLE:** The last paragraph in the  
20 seventh line, I'll begin the sentence by reading.  
21 Section 51 of the MCSA established the point that's in  
22 error is "The Office of Child and Family Services Advocacy  
23 (Advocate's Office)" should be deleted and the term  
24 "Custody Review Board" should be inserted.

25 **MS. MORRIS:** Thank you.

1                   **MR. SEMPLE:** In preparing the section on  
2                   complaints 10.8, we did reference it at a point that was  
3                   mirror-imaged with the 10.7 of complaints about staff in  
4                   the adult, but I prefer to present it in the context of  
5                   safeguard initiatives that were established for young  
6                   persons in correctional services, and I'll refer to it in  
7                   due course with some opportunity for me to comment on some  
8                   juvenile justice practices that have aided the development  
9                   of safeguards and demonstrated the evolution.

10                   Complaints and complaint procedures us one  
11                   aspect, and I would like to submit complaints within that  
12                   larger topic.

13                   **MS. MORRIS:** All right. Thank you.

14                   And I understand also you'll be dealing  
15                   specifically with safeguards and respect of youths, but  
16                   that safeguards described by Ms. Hughes in respect of  
17                   adults were also applicable?

18                   **MR. SEMPLE:** The accountability mechanisms  
19                   that Ms. Hughes went into with regard to reporting of  
20                   incidences and recognizing the various bodies such as the  
21                   Ombudsman or investigators are all relevant and I think the  
22                   point is worth restating that within the Ministry of  
23                   Correctional Services youth programs relied on for the most  
24                   part all the policies and procedures of adults, unless  
25                   specified otherwise, so that there was a program specific

1 manual that would -- that I've been referencing that dealt  
2 with young offender programs. They were always relied on  
3 those overlaying policies and procedures with regard to  
4 staff ethics, reporting of serious occurrences and other  
5 examples.

6 **MS. MORRIS:** Then can you firstly identify  
7 youth rights and mechanisms of response historically? And  
8 secondly identify specific safeguard initiatives that the  
9 Ministry has taken over the years in respect of youth?

10 **MR. SEMPLÉ:** Well, from our historical  
11 perspective on the *JDA*, on the *Juvenile Delinquency Act*, we  
12 know that it was relying on discretionary powers of judges  
13 and also correctional officials. I will reference the  
14 screen for your benefit to page 46 and it's section 11.

15 Historical references that we've submitted  
16 in this presentation were not those of ourselves but from  
17 other critics and historians looking at how the *JDA* led to  
18 some questionable practices and maybe the effectiveness  
19 overall of the social welfare model was brought into  
20 disrepute simply because the fact that a youth's legal  
21 rights, if you will, are minimized. So in looking back,  
22 while the term "safeguard" perhaps wasn't in vogue, the  
23 fact was that there were steps being taken provincially to  
24 address and federally to redress the situation.

25 On the provincial level, for example,

1 Section 8 of the *Ontario Training School Act* was repealed  
2 partly because up until then, status offenders or a  
3 juvenile who was charged with an offence that would not be  
4 a crime if it was committed by an adult could be placed in  
5 training school. That meant that at a point in time in the  
6 mid-'70s, there were likely more than half of the children  
7 in training school were there as a child welfare case or  
8 would not have been adjudicated in a youth court. That by  
9 and large was a safeguard that was starting to be  
10 prominent, given that Section 8 was repealed.

11 The other indication from the federal level  
12 was that there was a review and a mechanism already  
13 starting to reform and create some affirmation of legal  
14 rights. Of course, it took many more years to achieve, but  
15 it was becoming less reliant on the child welfare model to  
16 be effective with youth.

17 I mean it jumped too quickly to a federal  
18 perspective, but one other mention under the *Juvenile*  
19 *Delinquency Act* was that the province established the  
20 Training School Advisory Board which, in effect, became an  
21 oversight body and an administrative function that was able  
22 to assess wards that were wardship and to determine how  
23 long a youth would remain in a training school and when it  
24 would be placed on the community and then wardship would be  
25 terminated.

1                   There was another provincial evolution about  
2 child advocate, which was as early as 1978, child advocate  
3 is mentioned in our literature. In an informal manner,  
4 that process of child advocacy was established in office in  
5 this province, in the office of the Child and Family  
6 Services, in 1982, under Section 102, the *Family Services*  
7 *Act*. That provided a service of advocacy on behalf of  
8 young persons and families who were receiving services  
9 under the *Child and Family Services Act*. And I would just  
10 point out that at that point in time that is not reflective  
11 of the -- or it would not be accessed by young offenders  
12 because at that time there were working -- there were no  
13 young offenders in the Ministry of Correctional Services at  
14 that time; is what I was trying to say.

15                   Given the current understanding of  
16 safeguards and reflecting into 1985, there was a couple of  
17 sections that we wanted to point out to you that were  
18 inherent in the original policies and procedures. And I  
19 would like to establish the sections that were available to  
20 us on the rights of young persons, and they were found in  
21 Tab 26, the 118th page, and that was Directive 10/85 YOA.  
22 Here you see that all young persons have legal and human  
23 rights. It is imperative that all staff ensure that these  
24 rights are not infringed upon, and it references the legal  
25 rights under the *MCS Act*, Bill 149, the *MCS Act* and the



1        *Young Offenders Act*; and that also the rights are found in  
2        the *Principles of the Human Rights Act* in 1984 that we  
3        spoke about earlier this morning.

4                    That was also subsequently located in Tab  
5        27, reference No. YOA 01 02 02; and Tab 28, YOA 01 02 02.  
6        And I think the page reference you will find is 1006019.

7                    So the references might read or appear to be  
8        in respect to custody and supervision, and so that states  
9        of course that the Ministry's policy was to make sure that  
10       young persons were aware of their rights whether they were  
11       under community supervision or under custody. And that was  
12       the right to complain, the right to privacy, several of  
13       those. So our reference, of course, is that there was  
14       inherent in 1985 the legislative rights that were availed  
15       to young persons and that staff were aware of those and  
16       they were made aware of informing youth of those rights.

17                   **THE COMMISSIONER:** Do you want to take a  
18       break?

19                   **MS. MORRIS:** Thank you, Mr. Commissioner.

20                   **THE COMMISSIONER:** All right, let's take the  
21       afternoon break.

22                   **THE REGISTRAR:** Order. All rise. The  
23       hearing will reconvene at 3:30.

24       --- Upon recessing at 3:14 p.m./

25                   L'audience est suspendue à 15h14

1 --- Upon resuming at 3:32 p.m./

2 L'audience est reprise à 15h32

3 **THE REGISTRAR:** All rise. À l'ordre;  
4 veuillez vous lever.

5 This hearing of the Cornwall Public Inquiry  
6 is now in session. Please be seated.

7 Veuillez vous asseoir.

8 **GLENN SEMPLE, Resumed/Sous le même serment:**

9 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

10 **MORRIS (Cont'd/Suite):**

11 **THE COMMISSIONER:** Thank you. We're ready  
12 to go?

13 **MS. MORRIS:** I would like to go ahead  
14 please.

15 **THE COMMISSIONER:** Now, where were we? We  
16 were closing off on what section?

17 **MR. SEMPLE:** Complaints.

18 **THE COMMISSIONER:** Complaints.

19 **MR. SEMPLE:** Complaints, yes.

20 **MS. MORRIS:** You were going to talk about  
21 complaint avenues?

22 **MR. SEMPLE:** Yes. For the purposes of  
23 referencing the text that individuals have on the screen  
24 that indicates that young offenders had a number of  
25 complaint avenues available to them, which continue to date

1 -- and now apparently no signal. I was going to complain.  
2 Sorry.

3 (LAUGHTER/RIRE)

4 MR. SEMPLE: I would like to take you to Tab  
5 28, to manual section YOA 04 01 06, and that's page  
6 1006076. Ends in 6076.

7 This section of the manual will amplify  
8 complaint mechanisms that were available to youth prior to  
9 the date on which this manual text is provided, but if  
10 individuals will bear with me, it's representative of --  
11 it's one stop that we can make in a manual to reference the  
12 avenues available to young persons.

13 Let me preface by saying that with regard to  
14 young persons in custody or even on probation, many youth  
15 either would not contemplate complaining or wouldn't know  
16 who to complain to or wouldn't trust perhaps or even  
17 realize that the individual that's the authority is there  
18 to care or would be concerned.

19 So one would contemplate that while  
20 complaints procedures could be very quickly identified and  
21 we could move on, I wanted to certainly bring to the  
22 attention that the Ministry's awareness that youth needed  
23 to be made aware of these complaint mechanisms they had to  
24 be able to understand them. They were repeated several  
25 times, often as necessary upon admission during the plan of

1 care discussion, during the plan of care review and  
2 whenever the young person asked.

3 If the complaint mechanisms appeared to be  
4 hard to understand, then it was necessary for the Ministry  
5 representatives or the probation officer to ensure that  
6 they appreciated the complaints mechanism. If it had to be  
7 made simpler or made more personalized, then that would  
8 take place as well.

9 So I would ask you to turn to page 3 of this  
10 subject coding YOA 04 01 06 and what I can indicate, and  
11 this is the reference. Now, that may have just gone. If  
12 we could go back to page 3.

13 As we would scroll down the general  
14 complaints mechanism, first of all is to be made aware of  
15 any rules. This applies particularly for residential  
16 settings but that youth needed to know the rules of  
17 governing the day-to-day operation of the facility or the  
18 residence, including behavioural expectations and  
19 disciplinary procedures. I think any parent would likely  
20 identify with an aspect that youth need clear guidance in  
21 terms of what their requirements are.

22 Nevertheless, the complaint mechanisms were  
23 to be made as a procedure in terms of informing the youth,  
24 and those were several, in fact, and I'll go down the left-  
25 hand column. There's the Advocacy Office and the youth's

1 right to receive visits and to communicate in confidence.

2 We'll just scroll down the screen to  
3 complaints against police. Again, in the evolution,  
4 complaints against police were more systemized in terms of  
5 a process so that the Ministry had to be able to provide  
6 information when required. So the procedures for filing  
7 complaints often depended on the police agency. So those  
8 were another complaint mechanism.

9 I'll just scroll down the screen to the top  
10 of page 4, and there will be a reference to the Custody  
11 Review Board. You may have seen in the earlier text, the  
12 reference. I'll just stop here just to explain that the  
13 Custody Review Board was employed similarly to the Training  
14 School Advisory Board but not with the same effective  
15 procedures, but it transformed, if you will, under the  
16 *Young Offenders Act* to provide a service that would review  
17 placements, temporary release decisions and transfers to  
18 secure custody under 24.2.9, which was an emergency  
19 transfer provision, and also had some provisions for  
20 probation orders to reside, but that was another body that  
21 youth were informed about.

22 To the Ombudsman, which was a reference that  
23 Marg Hughes made, and then finally, other complaints that  
24 would be indicated to a probation officer who may be  
25 assigned to the youth who's admitted to an open custody or

1 a detention centre and youth was encouraged to initiate a  
2 complaint to the probation officer or to the residential  
3 liaison officer.

4 So this reference is a one-stop to -- and  
5 each one of those is broken out into other references that  
6 I would sort of take you to, but suggest that in the  
7 evolution of developing safeguards is in empowering youth  
8 to speak for themselves, to ask if they need help and to be  
9 able to come to an adult or to an authority if they have a  
10 complaint about their care or about their supervision or  
11 any concern that they may have. So that established  
12 complaint mechanisms precisely.

13 There was one other reference if I can tab  
14 back to our presentation, Ms. Morris, which was just at the  
15 second paragraph of 10.8. It was found on page 45. So  
16 we're talking at the bottom. It started in 1987. Again, a  
17 mechanism that may not have been first seen as a safeguard  
18 but was incorporated as part of the Ministry's overall  
19 provisions to offenders and to clients was the  
20 accessibility using a collect call system to official  
21 offices within the Ministry, and every effort was made to  
22 resolve the issues at a local level. Nevertheless, the  
23 caller could -- would be asked to follow-up complaints in  
24 writing, particularly where there were serious allegations  
25 made.

1           So in the provisions in the 1987 time period  
2           is that young offenders would have been made aware of their  
3           right to be able to contact an individual at the corporate  
4           office if they had any complaint that couldn't be resolved  
5           at the local level.

6           I'm going to turn now -- because I've  
7           incorporated 10.8 into what is just a continuing passage in  
8           the development of safeguards for young persons and ask you  
9           to turn to page 48 of the Ministry's submission in the  
10          paragraph that starts "During the mid-1990's". And there  
11          may be recollections, in fact, to allegations of staff  
12          abuse that emerged in the mid-1990s from former residents  
13          of 10 provincial training schools dating back to the 1950s.  
14          Police investigations into these allegations resulted in  
15          numerous charges laid against former staff of various  
16          current at the time and former training schools across the  
17          province.

18          With that, I believe, the legacy of abuse in  
19          some limited circumstances and with a limited number of  
20          youth predicated a significant response by the Ontario  
21          government in terms of moving forward to ensure that  
22          safeguards were established in residential settings, that  
23          the ensuing provisions would improve accountability and  
24          access to third party review mechanisms for youth  
25          throughout the system, including youth who were on

1           probation in the community.

2                                 With respect to some of the other  
3 highlights, I will probably comment on several that took  
4 place as significant enhancements or introductions of a new  
5 policy or the consolidation of a number of policies similar  
6 to the complaint mechanisms that I described to you just a  
7 few minutes ago.

8                                 I might say at the same time there was a  
9 committee of deputy ministers on abuse in provincial  
10 institutions that was established and chaired by the Deputy  
11 Attorney General, and that committee was charged with  
12 developing an overhaul strategy on past and current abuse  
13 in provincial institutions, and that was also a committee  
14 that was formidable in addressing recommendations.

15                                 One particular report that was called by the  
16 Ontario government when Joanne Campbell was appointed was  
17 to review all the safeguards in children's residential  
18 programs, and that review was conducted jointly with the  
19 Ministry of Community and Social Services and the Ministry  
20 of Correctional Services. While it did not deal  
21 specifically with the cases of abuse, it examined how  
22 residential services were provided, how children and youth  
23 were protected from physical, sexual, emotional abuse and  
24 assault, and the pattern of responses to allegations of  
25 abuse.



1           Just a point of reference, while this did  
2           not -- the report did not dwell or emphasize probation  
3           services or community based services, this was a turning  
4           point, if you will, in the provincial and Ministry  
5           recognition of the need to examine all aspects. So there  
6           was a lot of carryover effect by these reviews, not only in  
7           the conducting of the review itself but in the corporation  
8           and the responsivity to the recommendation. So in 1991,  
9           the recommendations were accepted and were used as a  
10          blueprint to help the ministries focus in firm efforts to  
11          ensure that children and youth in care remain committed to  
12          making necessary enhancements.

13                 So within the Ministry there were a number  
14                 of established committees, if you will, and processes to  
15                 move forward with providing review, if you will, of the  
16                 current procedures that were in place.

17                 Ms. Morris, just so as not to distract the  
18                 process, but in order just for the Commission to  
19                 acknowledge, the review took place at a time where  
20                 safeguards were already established and in place, and we  
21                 just noticed that -- noted that in the Roman numerals I to  
22                 IX, just I'll read them into the record.

23                 The *Ministry of Correctional Services Act*  
24                 had by virtue independent reviews of complaints. In  
25                 section 2, the Operational Policy and Procedures Manual had

1 a number of mechanisms and safeguards, namely -- and we've  
2 referenced complaints against staff, but there was also  
3 discipline standards, behaviour management, right to access  
4 counsel, access to the Ombudsman, access to the telephone,  
5 secure isolation policy, child abuse policy and young  
6 offender rights policy.

7 I will tab out to a few of these, but I'll  
8 just reference them first, the Probation and Parole Manual  
9 included many -- I'm sorry, the Residential Service  
10 Standards and Guidelines. Roman numeral III had a  
11 complaints procedures section, a rights policy, discipline  
12 and behaviour, complaints against staff, staff screening.  
13 Probation and Parole Manual had a comparable section on  
14 child abuse and protection policy.

15 Roman numeral V was the youth's right to  
16 correspond to the Human Rights Commission or their MPP or  
17 the Minister of the Crown and/or the press.

18 Roman numeral VI, the youth may raise any  
19 concerns with the Ministry's investigations branch.

20 Roman numeral VII, youth may voice their  
21 concerns to any supervisor who will either investigate the  
22 concern or refer it to a higher authority.

23 Roman numeral VIII is the youth can have  
24 access to its parent, guardian and family. In fact, they  
25 had a legislated right to be involved in the youth's plan

1 of care.

2 And number VIX, which was all the young  
3 persons had access to the office of Child and Family  
4 Services Advocacy, which I'll explain just in a very short  
5 moment.

6 So during the approach to looking at what  
7 needed to be done, we also took stock and inventory, if you  
8 will, if the established complaint mechanisms and  
9 safeguards that were in place.

10 But I think for a moment I'll take you to a  
11 few of the tabs that we mentioned, just to suggest where  
12 they were referenced. In the child abuse policy, first  
13 reference is -- I just have to make sure I have the right  
14 one -- Tab 27, YOA 01 03 06. I believe that's correct.  
15 And it's on the 85<sup>th</sup> page; that's correct. Okay, I just  
16 wanted to check my reference.

17 So what we have here is the undertaking from  
18 Ministry and agents of the Ministry to promote the best  
19 interests and protection of the well-being by recording to  
20 the local Children's Aid any child who they believe may be  
21 in need of protection. And so that was encouraged and  
22 incorporated in policy and there's subsequent references to  
23 the child abuse policy in further versions of the manual.

24 Another reference is to the child advocate,  
25 and I'll reference to the same Tab 28, this time to YOA 01

1       03 06, and we'll be referencing page 1006030. This  
2       reference to the child advocacy is part of the early stages  
3       in the evolution of describing that there were three forms  
4       of advocacy that were envisioned and authorized, and that  
5       was to conduct rights advocacy, case advocacy, and a  
6       systemic advocacy of young persons. So a youth may only  
7       have a complaint and may not even know whether it's rights  
8       advocacy or case or systemic, but the process would be to  
9       invite that visit or the telephone call from an advocate to  
10      determine the extent of their complaint and to what degree  
11      it could be rectified within the facility.

12                With respect to the child advocate's role,  
13      they tended to follow the child and not be inordinately  
14      concerned about where the child was in the system.  
15      Therefore, a youth may be introduced to the child advocate  
16      while they had placement in a secure custody residence but  
17      at the same time would be acknowledging the role of a child  
18      advocate when they're out in the community and there may  
19      also be a reference point that they would want to  
20      communicate to the child advocate.

21                The child advocate worked on the same basis,  
22      I think, as we were all learning; was that it was important  
23      to assure youth of confidentiality, to establish a  
24      relationship of trust and to ensure that the youth had a  
25      voice and were acknowledged so that the child advocate's

1 position would always be in favour of the youth's complaint  
2 and support them no matter what that complaint might be.

3 And so that provided to the youth an  
4 assurance that they were believed and that they had someone  
5 that would speak up for them. So that was found in the  
6 child advocate section of 01 03 06.

7 We also had a section 28, and I believe it's  
8 on the screen now and that's reference YOA 01 03 07. And  
9 this was another -- you could say it's a reiteration of the  
10 child abuse policy. So what it brought forward was  
11 provisions of the CFSA to report for all service providers  
12 who had reasonable grounds to believe young persons had  
13 suffered abuse, to report it to the local police and, on  
14 occasion, to report it to the local police and to the  
15 Children's Aid Society. So it became further definition,  
16 if you will, about accessing the Children's Aid for the  
17 purposes of reporting abuse.

18 I'd like to turn to Tab 75 for a moment to -  
19 - I made several references which I think are of some  
20 importance as to establishing safeguards, is that it  
21 requires -- this screen, unfortunately, has a poor  
22 photocopy. But the title of this publication was called  
23 Rights and Responsibilities and I think it was the view of  
24 the Ministry that the incorporation of appropriate  
25 safeguards for youth was, first of all, having youth that

1 understood their rights, but also had an appreciation for  
2 their responsibilities.

3 And this booklet was written at a time where  
4 every effort was being made to translate, if you will, some  
5 very serious policies and some very important rights and  
6 privileges into an easy-to-read and sort of easy to  
7 understand format so that youth could be better informed.  
8 And this booklet, if I were to read the first two  
9 paragraphs, would say that it applies -- read in the first  
10 person to a youth that, "It applies to you, whatever your  
11 age, whatever your gender, race, nationality, ethnicity or  
12 culture. And after reading this if you have any questions  
13 ask your probation officer or staff at the center where  
14 you're staying for more details".

15 So even on the first page, it's reminding a  
16 youth, "If you're on probation in the community, your  
17 probation officer will supervise you and explain the  
18 conditions of your probation order that you must follow.  
19 Remember, your probation officer is there to work with you  
20 and help you with any problems".

21 So I think, consistent with our efforts in  
22 response to the Joanne Campbell Report, but in trying to  
23 mitigate the risks involved with youth not understanding or  
24 not realizing or just sort of by chance ignoring those  
25 provisions that were available by the province, this

1 booklet was another reminder. And, as I say, it was given  
2 to the youth as a personal property, if you will, to ensure  
3 that they had it with them. And they could remind  
4 themselves of various aspects of the criminal justice  
5 system where they may be involved with just an alternative  
6 measure, or they may be involved with a probation order;  
7 they may be involved more seriously with a secure custody  
8 as there was a chapter, if you will, for every section.

9 So the Rights and Responsibility booklet was  
10 made available and distributed in 1974.

11 The other aspect of -- we talked about  
12 empowering youth and making them aware of their rights and  
13 privileges. Unavailable at this moment to submit, but I  
14 can make reference to "A Rights Video" that was produced by  
15 Ontchild which is a social service agency with input from  
16 all the Ministries. That was made available and it was  
17 done in a video format. So for youth that may not be able  
18 to read or where literacy was an issue, "A Rights Video"  
19 which complemented much of the booklet that I was  
20 referencing to you; this is -- the reference to the rights  
21 video is found on page 50 and it's bullet 5, and it's  
22 entitled -- I can't recall at the moment if the title of  
23 the video was Rights and Responsibilities, or Get It Right,  
24 or something like that.

25 Just going down the page to, in

1 collaboration with NCSS, I wanted to also acknowledge  
2 another recommendation and a follow-through by a number of  
3 ministries and that was to work collaboratively with the  
4 Ministry of Colleges and Universities. And that was to  
5 ensure that college programs that were dealing with social  
6 service programs; in particular feeder programs that may be  
7 going into social work, that may be going into correctional  
8 work, would deal with the topic of safeguards in terms of  
9 understanding and appreciating external review mechanisms,  
10 offender rights, and advocacy in curriculum.

11 Ms. Morris, what goes hand-in-hand with an  
12 empowered client is an informed and appropriately trained  
13 staff. And this awareness within the college curriculum  
14 and universities was an approach to establish that as part,  
15 not only of the recognition, but some of the  
16 responsibilities that go along with ensuring that clients  
17 are aware, as well as being able to exercise any position  
18 of power or authority with appropriateness.

19 But it was a balance, I think, that the  
20 review found, is that we wanted to get to individuals  
21 before they even started working with any children in any  
22 way, shape or form.

23 I'd like to go to the bottom of the page 2,  
24 "by December '92". With the reference I made to the child  
25 advocate and speaking about the evolution of children



1       accessing the child advocate's offices, that increased the  
2       numbers and obviously the demand for services by the  
3       child's advocate. And so in December of 1992 the Ministry  
4       recognized the need to hire and dedicate a position to the  
5       existing advocacy office and that was to assist with the  
6       workload, to serve the needs of young offenders.

7               I don't have statistics to bear -- in front  
8       of me to bear, but from personal experience with the  
9       additional information that was distributed to children and  
10      youth about the advocacy office, the custody review board,  
11      for instance, there was an incremental increase in the  
12      number of complaints. The increase in the number of  
13      complaints was warranted because every complaint was  
14      substantiated and addressed as quickly and as easily as  
15      possible. There came a point where, if we didn't see  
16      complaints, we would have more concerns than if we had a  
17      lot of complaints. It would be a balance.

18             What we would determine or might ascertain  
19      is why are we not getting any complaints from this  
20      facility? It's either the best-run facility where no  
21      complaints would ever exist, or it's a facility where  
22      children weren't aware of their rights to make complaints  
23      and therefore to exercise their privilege. So we started  
24      to get a change of perspective. We started to see a  
25      changing of the mindset of how complaints were dealt with

1 and how the procedures were actually enabling and were  
2 allowing us to get into a more of a prevention-oriented  
3 approach.

4 We could look at trends, we could observe  
5 issues and we could identify hot spots. Later in the text,  
6 Ms. Morris, and I'm just not sure, but I think it's  
7 important to indicate here -- and the text is somewhere on  
8 the bottom of page 52. So it's a little out of step but I  
9 think it goes with what I am saying.

10 At the bottom of page 2, there was a  
11 reference that young offender operations continued to  
12 provide support to the advocate's office to address any and  
13 all concerns as they arose. And then when issues that  
14 could potentially be lodged as a complaint with the office  
15 of the Child Advocacy were brought to the attention of the  
16 Ministry in a pro-active manner, young offender operations  
17 would contact and communicate such a matter to the  
18 advocate's office together with a response or the proposed  
19 actions that we were already undertaking.

20 So within the evolution the safeguards was a  
21 privileged relationship with the child advocate's office on  
22 the basis that the ministry was, as it became aware of  
23 youth that may need assistance -- and an example of that  
24 might be a probation officer might have a very special  
25 needs case in their care in the community and say, "This

1 child needs a voice outside of their own to advocate for  
2 mental health services" or the like. Or it could be a  
3 custody staff who is feeling that an individual needed more  
4 assistance and would turn to the child advocacy office as a  
5 resource. And they might be able to say, "Well we had a  
6 case like that in another facility and we were able to" --  
7 for instance, it might be a youth who had a special  
8 learning issue or they may have had a translation issue.  
9 And what they would do is they would help share some of the  
10 best practices.

11 So there was pro-active approaches and I  
12 believe the young persons were starting to become more  
13 familiar with the activities of the child advocate during  
14 those time periods.

15 So I've gone through the tabs referencing a  
16 number of the external mechanisms that were available to us  
17 and also some external legislations that required youth  
18 protection. The one tab that remains yet, sort of,  
19 unreferenced is Tab 28, 080000, and that reference is page  
20 1006215 and this simply is the table of contents for  
21 reference to the youth worker definitions.

22 Ms. Morris, you'll recall earlier I was  
23 saying that other duties assigned to probation officers  
24 would be those of an institutional liaison officer or a  
25 residential liaison officer and this is just a matter for

1 the record, indicating that there were policies, procedures  
2 and some guidelines for each of those roles because over  
3 time the role of a residential liaison officer who would be  
4 a probation officer attending and working within an open  
5 custody setting or an institutional liaison officer working  
6 and connecting with a secure custody facility is that the  
7 probation officer also became a set of eyes, also became an  
8 individual in authority that a youth could complain to and  
9 could make reference to in terms of assistance.

10 So that became an internal mechanism as  
11 well, relying on the probation officer to be able to  
12 perform their duties as assigned in terms of all the  
13 regular duties. But this provided them with some  
14 requirements to be assisted to youth when they were in  
15 residential settings.

16 I'll return to our section 11 to provide  
17 maybe just one or two more references, Ms. Morris, just to  
18 complete the safeguards area that we've kind of navigated  
19 before and just after the break, page 53, and I believe  
20 that the -- actually, the first bullet point that appears -  
21 - Ms. Hughes was making reference earlier in the day to the  
22 directive issued on January 12<sup>th</sup>, 1996 concerning  
23 allegations of serious criminal activity, sexual assault,  
24 workplace discrimination, harassment and sexual  
25 impropriety.

1           It's in reflection on -- it's in addition to  
2           this directive, is what I'm trying to say, that there were  
3           two other directives that were made with respect to young  
4           persons and Directive 3196 spoke specifically about a  
5           bilingual sign, notice that would be made available in  
6           young offender living areas to instruct young persons in  
7           the process of making complaints; again, one more  
8           instrumental step in making sure that there were postings  
9           of these rules.

10           And also Directive No. 3895, which is  
11           entitled "Program Evaluation Instrument", and this focused  
12           on research that was helpful in the analysis of assessment  
13           tools that could be effective in operationalizing access  
14           for vulnerability for residents as well as violent  
15           perpetrator characteristics and individual residences. So  
16           it was more of a treatment-focused evaluation instrument.

17           And again, that was all seen to be part and  
18           necessary as part of the residential review that we  
19           incorporated. I believe both of those are tabbed out, but  
20           I'm -- at this point I'm not sure if we have selected those  
21           out for a purpose of indicating that they are in the  
22           record.

23           But I made mention of them here, Ms. Morris.  
24           I'm not sure what you ---

25           **MS. MORRIS:** Perhaps we could move onto the

1 consolidation?

2 **MR. SEMPLE:** Yes.

3 In Tab 28, consolidation of all the  
4 complaints mechanisms and some of the respective youth  
5 protection policies, when we turn to page -- oh, I'm sorry,  
6 Tab 28, we should be on page 1006013.

7 If we scroll down to the "Administration"  
8 section, so that in this area -- and I'll just point out  
9 that this became a section for staff to quickly identify.  
10 This is more of an organization of the manual around some  
11 key areas but we were precise in ensuring that staff could  
12 go to one section of the manual. They would find legal  
13 aid, confidentiality, communicating confidential  
14 information to the ombudsman, young offender advocacy,  
15 youth protection for those youth that were Francophones,  
16 the French-language services and workplace discrimination  
17 and harassment issues. Again, this was positive in terms  
18 of incorporating the consolidated section that allowed  
19 staff to indicate the connection between these policies and  
20 to be able to enforce them. But there are other sections  
21 as well that we made reference to in the manual.

22 So I think what that concludes for the  
23 purposes of demonstrating some of the responsibility to  
24 allegations of abuse that were historical was that the  
25 Ministry's due diligence in terms of incorporating a range

1 of operational policy and procedural safeguards to ensure  
2 that youth were empowered, to ensure that staff were aware  
3 of and were diligent and, I believe, that section 11 of the  
4 report covers each of those areas in sort of a -- in some  
5 ways chronological order, sometimes emphasizing for  
6 purposes of repeating it where some of the policies were  
7 enhanced as well over time.

8 So I submit that as the area of safeguards  
9 that was unique to children and youth under the care and  
10 supervision of the Ministry.

11 **MS. MORRIS:** Thank you, Mr. Semple.

12 **MR. SEMPLE:** Thank you.

13 **MS. MORRIS:** In terms of 11.1, "Young  
14 Offender Complaints Procedures" and 11.2, "Advocacy".

15 **MR. SEMPLE:** Yes.

16 **MS. MORRIS:** I understand that you have  
17 covered those in the portion ---

18 **MR. SEMPLE:** Yes.

19 **MS. MORRIS:** --- dealing with safeguards?

20 **MR. SEMPLE:** Yes, that's correct.

21 **MS. MORRIS:** So moving, then, to section  
22 11.3, "Young Offender Oversight: Monitoring Model  
23 Compliance Reviews".

24 **MR. SEMPLE:** Ms. Hughes gave evidence  
25 earlier that established the Ministry's overarching

1 requirements, particularly for audit and also case reviews.

2 What is highlighted for the purposes of  
3 demonstrating the young offender oversight and monitoring  
4 models that were in existence and consistent with  
5 recommendations of the various reports was the compliance  
6 reviews and open custody, quarterly reviews -- quarterly  
7 safety and security reviews, the quality reviews that were  
8 conducted every two years and site visits as required.

9 I haven't mentioned what's also on that page  
10 was the investigation of incidents that would have taken  
11 place as per the information you received this morning from  
12 Marg Hughes as well as audited services. And then,  
13 investigation of complaints, I have spoken to that clearly.

14 In secure custody there were annual security  
15 reviews, annual security review checks done by the Audit  
16 Branch, quality reviews every two years and reviews of  
17 security tension programs arranged on a site-by-site on a  
18 random basis.

19 Both references indicate the Ministry's due  
20 diligence in ensuring compliance was being enacted with  
21 procedures and policies. So whether they were random or  
22 part of a methodology, there was an oversight that was  
23 being incorporated by the Ministry both at the corporate  
24 and regional levels to ensure that programs were running to  
25 their full potential and that the programs were running



1 according to policy.

2 So that indicates young offender oversight  
3 and monitoring models have been in existence in terms of  
4 compliance reviews.

5 **MS. MORRIS:** And these were reviews limited  
6 to custodial settings?

7 **MR. SEMPLE:** The two references are to open  
8 custody and secure custody, yes.

9 **MS. MORRIS:** Dealing, then, with Part 12,  
10 "Records Management", specifically, 12.2 in relation to  
11 youth?

12 **MR. SEMPLE:** The 12.2 reference, of course,  
13 was inherited, I guess, by the training school records  
14 being closed and the juvenile files going to the record  
15 centre. Probation offices would follow Ministry procedures  
16 to transfer those closed juvenile files and send them to  
17 the records centre.

18 I haven't incorporated any schedules in  
19 there per se, but I've dropped down in 12.3, if I may, just  
20 to be able to give somewhat of a -- some of the schedules  
21 that may have been in place.

22 For instance, files of wards were kept for a  
23 total of 50 years and ward files over 50 years were  
24 available in hard copy or microfilm format through the  
25 archives of Ontario.

1                   On the page following, if I may, Ms. Morris,  
2                   the top of page 57, there's a bit of a chart. This chart  
3                   was actually prepared by the Ministry's record manager at  
4                   the time which was just sort of showing where ward files up  
5                   to 1941 would be in the archives from 1941 to '85 would be  
6                   in the records centre and the administrative files would be  
7                   in the archives up to 1977, not available between '77 and  
8                   '85 and in 1985 to 1991 available from the Ministry of  
9                   Community and Social Services.

10                   In 1989 the Ministry of Correctional  
11                   Services main office central registry was closed and  
12                   ministerial files were transferred to the records centre.

13                   **MS. MORRIS:** All right.

14                   And dealing, then, under 12.4 with young  
15                   offender records?

16                   **MR. SEMPLE:** The young offender records  
17                   section was first and foremost a method and an approach to  
18                   keeping separate and apart records for adults and young  
19                   offenders. That would be more implicit for the Ministry of  
20                   Correctional Services than it would be for the Ministry of  
21                   Community and Social Services.

22                   So therefore, our ministry took all  
23                   approaches to ensure that all paper records and including  
24                   electronic records were kept separate and apart. There was  
25                   an amendment within the *Young Offenders Act* which created,

1 I guess, some confusion amongst many in terms of what  
2 records up to then -- what records were destroyed and what  
3 records -- and what the purposes of destruction were. I  
4 think, to simply say that over the elapsed time for a  
5 record to be accessible the record was sealed and, for all  
6 intents and purposes cannot be disclosed.

7 However, destruction was either optional in  
8 the case of prior to that amendment or not necessary  
9 afterwards. So I think the discussion about records and  
10 the aspects about disclosure are very clear. What is  
11 oftentimes fuzzy, if you will, is where the destruction  
12 provisions come into play.

13 The provisions of the *Youth Criminal Justice*  
14 *Act*, however, did follow the amended *Young Offenders Act*,  
15 so the provisions for youth records remains virtually  
16 intact to the YOA.

17 **MS. MORRIS:** Mr. Semple, I understand that  
18 that covers all the sections that you will be speaking to  
19 today in terms of the overview?

20 **MR. SEMPLE:** Yes, thank you.

21 **THE COMMISSIONER:** All right.

22 **MS. MORRIS:** That is the evidence in-chief.  
23 Thank you.

24 **THE COMMISSIONER:** Thank you.

25 Mr. Manson, do you have any questions of

1 this gentleman?

2 **MR. MANSON:** Given the lateness of the day,  
3 Mr. Commissioner, I'm going to curb my enthusiasm and I  
4 have no questions.

5 **THE COMMISSIONER:** Thank you.  
6 Mr. Lee.

7 **MR. LEE:** I have no questions.

8 **THE COMMISSIONER:** Thank you.

9 Mr. Bennett is not here.

10 Mr. Chisholm.

11 **MR. CHISHOLM:** No questions, Mr.  
12 Commissioner.

13 **THE COMMISSIONER:** Thank you very much.  
14 Mr. Thompson.

15 **MR. THOMPSON:** No questions.

16 **THE COMMISSIONER:** Thank you.

17 Lawyers for Mr. Leduc, no.

18 For the Diocese? Cornwall Police?

19 **MS. LALJI:** No questions, Mr. Commissioner.

20 **THE COMMISSIONER:** For the OPP?

21 **MR. KOZLOFF:** No questions, sir.

22 **THE COMMISSIONER:** OPPA.

23 **MR. CARROLL:** No, thank you.

24 **THE COMMISSIONER:** Thank you.

25 Sir, I'd like to thank you for the completeness of

1           your preparation and the documentation. Although a little  
2           impressive, I suppose, or daunting, I think they will serve  
3           the Commission well.

4                           Thank you very much.

5                           All right, so we -- Oh, I'm sorry.

6   **(LAUGHTER/RIRE)**

7                   **MR. ROULEAU:** We have no questions.

8                   **THE COMMISSIONER:** Well, we weren't going to  
9           let you ask any questions anyway.

10                   **MR. ROULEAU:** That's what I saw. On my  
11           birthday.

12                   **THE COMMISSIONER:** Is it your birthday  
13           today?

14                   **MR. ROULEAU:** Yes, it is.

15                   **THE COMMISSIONER:** Well, had I known, I  
16           would have baked a cake.

17                   **MR. ROULEAU:** Just wish for a victory from  
18           the Montreal Canadians tonight.

19                   **THE COMMISSIONER:** And I dare say that  
20           that's unanimous.

21   **(LAUGHTER/RIRE)**

22                   **THE COMMISSIONER:** Thank you very much.  
23           Let's have a good evening. Thank you.

24                   **THE REGISTRAR:** Order. All rise. À  
25           l'ordre; veuillez vous lever.

1                           The hearing is now adjourned. L'audience  
2                           est ajournée.

3                           --- Upon adjourning at 4:18 p.m./

4                           L'audience est ajournée à 16h18.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



---

Sean Prouse, CVR-CM